THIRTIETH CONGRESS—SECOND SESSION.

Report No. 104.

M63,
50.22

HOUSE OF REPRESENTATIVES.

WILLIAM MEDILL, COMMISSIONER OF INDIAN AFFAIRS.

FEBRUARY 17, 1849.
Laid upon the table.

Mr. FRIES, from the majority of the Select Committee appointed for that purpose, made the following

REPORT:

The Select Committee "appointed to inquire into and fully investigate the course pursued by the Commissioner of Indian Affairs in the administration of his official duties, and especially into the charges made and preferred in debate in this body on the 9th day of August, 1848, *by the Hon. T. L. Clingman, a member of this House," and to which said committee the resolution adopted on the 12th August,* 1848, *was referred, respectfully report:*

The committee met for the purpose directed by the resolution, on the 17th day of December, in the room of the Committee on Indian Affairs, and the chairman was instructed to notify the Hon. T. L. Clingman that the committee was prepared to proceed with the investigation of such matters as were referred to them, and to receive any communications he might be pleased to make. In response to this notification, a communication was received from the Hon. Mr. Clingman, marked A, giving the names of sundry witnesses to whom he referred for testimony to sustain the charges he had made; and said witnesses were duly summoned. On the 19th of December, by direction of the committee, another letter was addressed to the Hon. Mr. Clingman, requesting him to inform the committee whether a report of his remarks, as published in the daily National Intelligencer, of the 11th of August last, (appendix B,) was correct; and if so, to furnish the authority upon which he made the charges, and the names of the witnesses by whom the same might be proved. To this communication he made a reply, to be found in appendix, marked C.

On the 6th of January, the committee convened and commenced the examination of the witnesses whose names were furnished by the Hon. Mr. Clingman, and also of other witnesses whose names were given to the committee by those subpœnaed at his suggestion; and the investigation continued patiently and regularly up to the 27th of January. The most thorough and searching inquiry has been made into all the charges and allegations preferred by the Hon. Mr. Clingman on the floor of the House, as well as of such other allegations as were made or insinuated by the witnesses summoned on his behalf; and all whose names were furnished, with a single exception of one whose residence was very remote from Washington, and whose testimony could not have been procured in any form before the adjournment of the present Congress, have been laid before the committee, and their testimony carefully written down and read over word by word to the witnesses, by them signed, and preserved by the committee. This testimony is herewith appended and made a part of this report.

Not confining the testimony to the charges as substantially stated in the letter of Hon. Mr. Clingman, of the 11th December, 1848, above referred to, the committee thought proper to give a more extended range to the investigation, as well in justice to the accused as in fairness to his accusers and the country. This was called for by the nature of the inquiry imposed on the committee and the importance of the Bureau, the integrity of whose administration and transactions had been impugned, and which is second to no other subordinate division of the departments of this government in importance and extent of duty, and which embraces in its jurisdiction and control a larger necessary expenditure of public moneys, a greater diversity of interests, and more complexity of examination and decision in its legitimate business, the committee are fully borne out in saying, than that of any other separate departmental office. And besides, the committee could not lose sight of the important fact, that upon the confidence of the aboriginal people of this country, in the faithful administration of the office of Indian affairs, our relations with that interesting and numerous race altogether depend; that their distrust of those intrusted with its control and management might involve the government and country in difficulty and war; that these interesting, though ignorant people, are individually affected by the transactions of this Bureau, and look up to it for protection and guardianship; that their whole wealth is within its keeping and control; and that their advance or decline in the scale of nationality and civilization depends on the just and proper administration of the affairs of that office by its Commissioner and those under him; and that towards these singular people the sympathies of not only all our own country, but of the whole world, concentre; and from these considerations the committee would have been derilict to its duty, and would have overlooked the importance of the investigation confided to it, had it spared any effort or avoided any labor to reach the truth or justice of the allegations it has been called to inquire into and report upon.

The charges preferred not having been reduced to formal charges and specifications, the testimony was taken at large, and the witnesses were all interrogated as to their knowledge of any thing in the administration of the official duties of the said Commissioner, or of any act or transaction by him, affecting his integrity as a public officer; and where facts were referred to in the answers of the witnesses, a detailed examination was made in every instance, as the testimony appended will show.

To make the report more explicit in response to the several allegations, and those implied by the terms of the resolution, the committee prefer to state the charges separately, and in this order to report the result of its patient investigation of the matters referred to it.

It is proper to remark, before stating the charges as proposed above, that not only the allegations against the present Commissioner of Indian Affairs, but those against the office over which he presides, have been investigated, for the reasons given in the beginning of this report; in order that the truth may be known to the country in regard to any distrust or suspicion in reference to the office generally; and in order to ascertain the truth or falsehood of rumors which have, as the committee are well aware, from time to time been in circulation against that Bureau.

First. It is charged that "little or no confidence could be placed on statements or information derived from the Commissioner of Indian Affairs." [See appendix A.] In relation to this charge, however vague in its terms, the committee had before them various reports of the office of Indian Affairs upon divers cases and subjects referred to by the witnesses; and in no instance was there any fact elicited in the examination at all calculated to sustain any charge of inaccuracy in the statements contained in said reports; and where the witnesses stated their disapproval of the matter or the conclusions of any of said reports, it was found to be a mere difference of opinion between the Commissioner and themselves, and this disagreement of judgment seemed to the committee, in every instance, to be produced by interest on the side of the witnesses. See the testimony of Starrett, Bibb, Taylor, Rogers and Green. The committee need only say, that from the examination of the facts, &c., involved in these reports, and the testimony, the reports of Colonel Medill are entitled to the very highest degree of confidence and reliance, as well from the clearness of their details as from their historical and statistical accuracy.

Second. "That the Indian bureau was corrupt." Not an iota of testimony, even from those witnesses who, it appeared in the course of the investigation, had given currency to doubts and suspicions against the Indian office, and from whom, doubtless, the honorable gentleman whose remarks gave rise to this inquiry must have obtained the information upon which he made these charges, could be obtained to sustain this charge; and the committee are constrained to say that there was a total failure of proof, in regard to any allegation of corruption, either against the office of Indian Affairs or the Commissioner, Colonel Medill.

Third. "That the head of it (Medill) was dishonest." This severe charge against a gentleman filling one of the most important offices of the government, was completely disproved before the committee, even upon the testimony of the most "willing witnesses" against Commissioner Medill. Not a fact, or the shadow of a truth, impugning the personal integrity of the accused, was uttered by any witness before the committee; but all united in ascribing to the Commissioner the highest order of personal and official probity; and his integrity has passed the ordeal of a searching investigation, not only unassailed by proof, but the most bitter of his accusers have borne the highest testimony in his favor.

Fourth. That "such was the distrust of those interested in the transactions of that (the Indian) Bureau, that I (the Hon. Mr. Clingman) have been applied to more than once to move a resolution directing that the books of the Cherokee commission should be removed to a place of greater security, for that it had been said that the records of the commission had been altered, and, in some instances, by the officers of the Indian Bureau," (see appendix A.) It was proper, in considering this charge, that the committee should examine it in connexion with the qualification with which it was made, in the following words: "This, however, I said was reputed to have occurred during the time of Mr. Medill's predecessor." "It will be seen, therefore, that I preferred no specific charge against the Bureau as at present organized, but merely expressed an opinion generally founded on the statements of others."

Taking the whole charge and the qualification quoted, together, the committee were under the necessity of enlarging the field of investigation beyond a reference to the present Commissioner; and in noticing this charge, thus generally brought to their notice, it is due to the honorable Mr. Clingman to state, that the committee ascertained from some two of the witnesses, that they had made the representations to the honorable gentleman to which his remarks referred. As an act of justice to the honorable Mr. Clingman, who was thus wantonly imposed upon, the committee made a searching inquiry into all the facts involved, and found that there was not a scintilla of truth or fact to sustain the charges these witnesses had thus basely put in circulation. The office of Indian Affairs is fully exonerated in the testimony from all and every charge made against it by these witnesses, in relation to alteration of records, &c.; and said records, which were all before the committee, contradict every allegation on this subject. Not the slightest alteration appeared upon these records with which the Indian office had any connexion whatever; and, in one instance, where a slight change of words in an unimportant entry was exhibited to the committee, the erasure of a word or two [see the testimony of General Eaton and Mr. Mix] was satisfactorily accounted for as having been done without any improper design by one of the witnesses himself, (General Eaton.) Taking all the testimony upon this point together, as well in reference to Commissioner Medill's predecessor in office, as to that gentleman himself, the charge wholly falls to the ground, without a word of evidence to sustain it; and the origin of this severe accusation is traced down, unmistakeably and certainly, to the cutting of a few useless and redundant leaves from a private memorandum book belonging to a former Cherokee commissioner—said book being *his own* private property, kept in his own possession, and *brought by him* to the committee, and which, the committee are fully satisfied, never was for a single moment, for any purpose, in the office of Indian Affairs. Nor will it be believed by any one who will read the testimony upon this point, that Commissioner Medill, or any of his predecessors, or any person in any way connected with the office of Indian Affairs, as Commissioner, clerk, or in any other capacity, ever had any knowledge of said book, or had even ever seen it until it was brought by its owner to the room in which this committee held its sittings! A more insidious or more flagitious accusation was never before, perhaps, preferred against any man; and, in the history of Congressional investigations, we are sure a more thorough and complete exposure and refutation of a specific charge never has been exhibited, than will be found in the testimony of the several witnesses, in reference to this charge of mutilation of records.

The attention of the committee was invited by the Hon. Mr. Clingman to the memorial of the Cherokee claimants, which he submitted at the last session of Congress; and the committee have given said document a full examination. The principal object of this memorial, appears to have been to show to Congress the propriety of providing for the appointment of another and a fifth board of Cherokee commissioners; but it is made up of divers charges and allegations of interference on the part of the War Department with the decisions of the four several expired boards, to the detriment of the rights of claimants, &c. Against the present commissioner the said memorial makes two charges: *First.* That before the last commissioners commenced their session, he issued instructions to them in "violation of the good faith of the United States, and in breach of the good faith of solemn treaties." These instructions are referred to as contained in a letter from said Commissioner of Indian Affairs, dated August 27, 1846, (see appendix.) *Second.* That the Commissioner of Indian Affairs (Colonel Medill) refused to suffer the records of the decisions of the commissioners to be inspected by counsel, &c.; and that "by withholding the records it was intended (by said Commissioner Medill) that the general presumption of fairness in the conduct of the business, and of the correctness of the decisions of the board of commissioners, should be indulged." (See House document No. 8, 30th Congress, 1st session, page 61.) The letter of August 27, 1846, from Commissioner Medill to Messrs. Brewster and Hardin, has been carefully examined by the committee, and without inquiring as to the question of the power or duty of the department to instruct said board of Cherokee commissioners, in relation to their ourse, the committee find nothing in this letter which professes to be in any way obligatory on the action of the Cherokee board. It very properly refers to them the views of the Department, as made known to fo boards, for their information, merely, however, because

Commissioner Medill expressly declines in it to give any opinion as to the correctness of these views of his predecessor referred to, for the reason that the Attorney General was now made the umpire in all cases where the commissioners might disagree. By inviting the board to a free intercourse with the office of Indian Affairs, for the purpose of arriving at such facts from its files and records as would promote the ends of justice, Commissioner Medill was no more than courteous to the new board; and no one seeking justice should condemn him for this. The suggestion, in relation to the certificates of awards, was addressed to the consideration of the board, and the reason for said suggestion was plainly given; and it was in evidence before the committee that the commissioners disregarded from the first this suggestion, and did issue the certificates upon allowed cases; and those of them for which no appropriation was made, are to this day in the office of the Second Auditor unpaid! The correspondence between the office of Indian Affairs and the Cherokee commissioners, and the testimony given by the witnesses, fully disprove this charge; and the committee can find nothing in the course or conduct of Commissioner Medill, in this connexion, in the slightest degree inconsistent with a just sense of the treaties and laws under which the board was appointed, or derogating from his character as a correct and capable public officer. The committee cannot forbear remarking, in this connexion, that some of those who have been complaining of these imaginary "instructions," particularly those of the memorialists who signed the letter of complaint to the President, dated May 10, 1847, have betrayed a most singular inconsistency of conduct and judgment. They insist most strenuously before this committee, and in their memorial to Congress, that the Cherokee board of commissioners, by the very nature of their appointment and organization, were entirely independent of the War Department, and that every form and appearance of instruction from any executive quarter, was usurpation and unwarrantable interference, violative of the sacred faith of treaties, &c., and yet, in their letter to the President of 10th of May, 1847, they gravely and importunately demand that said commissioners *shall* be "instructed" even in regard to the manner of their proceedings, and their rules for the hearing and adjudication of cases.

In relation to the charge of refusing an inspection of the Cherokee records, the committee find that the Commissioner did, for reasons stated in the letter to Mr. Bibb, of September 1st, 1847, and which reasons seem to the committee to be well stated and sufficient, decline to exhibit said records for indiscriminate inspection; but the committee are relieved of all difficulty in determining as to the justice and official propriety of this refusal—so far, certainly, as Commissioner Medill is concerned—by the fact that the Secretary of War, whose subordinate officer Commissioner Medill is, had, upon the depositing of these records for safe keeping in the Bureau of Indian Affairs, given directions requiring the Commissioner of Indian Affairs to deny all such applications as that of Mr. Bibb, of 7th of September, 1847. (See Secretary Marcy's letter, of 31st ultimo, to the committee in reply to questions addressed to him on the 26th ultimo.) Whether the reasons given by Secretary Marcy in his letter to the committee, for these orders in regard to those records, are sufficient, it is enough that Commissioner Medill should observe them properly, and with official courtesy towards applicants; and it is not alleged, by any witness against Commissioner Medill, that there was any harshness, or official discourtesy in the manner or matter of the refusal aforesaid.

The Commissioner of Indian Affairs, in the judgment of the committee, is entitled to praise rather than censure for the pains taken by him to satisfy applicants for an inspection of these records, of the propriety of the order of the head of the Department, which it was his duty to carry out and enforce; and the committee refer to the elaborate answer of the Indian office to the application of Mr. Bibb, to be found in the appendix to this report, and also to the letter to the Hon. H. V. Johnson, of August 2d, 1848, which accompanies the letter of Secretary Marcy to this committee, which, taken in connexion with the testimony on this point, as fully warranting the entire acquittal of Commissioner Medill on this charge. A third charge is indirectly made in this memorial against Commissioner Medill, in very harsh terms, and in substance amounting to an accusation against him of official corruption, in having endorsed and approved the course and proceedings of the last board of Cherokee commissioners, Messrs. Brewster and Hardin; and said charge is repeated and enlarged upon by several of the witnesses before the committee, who all, however, upon their oaths, carefully disclaim all intention of charging Colonel Medill with any want of personal integrity in this, or any other official act of his. (See the testimony of Starrett, Rogers, Bibb, Green, and others.) The facts in relation to this are briefly as follows: The Cherokee commissioners, on the 23d of July, 1847, made a written report to the President, in which they stated that they had organized their board on the 31st of August, 1846; and had been continually in session up to the day of their adjournment—the day said report is dated; that at the beginning of their session, and intermediately, they had given ample notice to claimants, and that they had acted on every case. This report was referred, by the President, to the office of Indian Affairs.

These commissioners were men of high character and reputation in their respective communities, and had acted and made their report under the sanctity of a solemn official oath. Why then should not the Commissioner of Indian Affairs be governed by this report in relation to the facts stated? It is alleged that the Commissioner of Indian Affairs addressed a letter to one of the commissioners while absent at Philadelphia, (Mr. Brewster,) requesting his return; and that Colonel Medill must therefore have known that the board was not continually in session, as stated by the commissioners themselves in their final report. It is true that such a letter was written by Colonel Medill, and a copy of it, with the reply of Mr. Brewster, was furnished to the committee by the office of Indian Affairs; and from the latter it will be seen that Mr. Brewster states that he was just about to return at the receipt of Mr. Medill's letter; that he had never been absent when there were any cases prepared for the action of the board. The other Commissioner, General Hardin, to whom a copy of the letter to Mr. Brewster had been transmitted, states in his answer to a note of Colonel Medill, enclosing the copy of the letter to Mr. Brewster, that his (General Hardin's) attendance at the office of the commission had been constant and unremitted, from the commencement to the day of the date of his letter; and in the answer of General Hardin "to the complaint of the persons calling themselves Cherokee claimants," dated 10th of May, 1847, he says, "the true ground of complaint is not alleged by complainants, it is, that the Commission has stood up and decided against a mass of claims blotched and blistered with fraud, and which, if admitted, would have taken from the public treasury millions of dollars for the benefit of persons wholly unentitled to compensation of any kind or amount." In the recorded proceedings of the board its continuous daily transactions appear to have been regularly entered by a correct and skilful secretary, (W. D. Miller, esq., of Texas,) and are signed from day to day by the two commissioners, and the committee are at a loss to see how Colonel Medill would have been warranted upon this connected chain of official information in relation to their session, in contradicting or disbelieving the positive assertion of the commissioners in the last act they performed under their solemn oath of office—their final report, on the 23d of July, 1847, to the President of the United States,—viz: that their board "has been constantly in session, and kept open for the convenience of claimants, for the purpose of filing cases and examining papers and records in the office of the commissioners, and at the same time the commissioners have been engaged in investigations of the claims presented, and rendering decrees thereon;" and that they "complete their official term after having examined and reported upon every case before them, and without a single demand unadjusted and undecided." All that the memorialists can possibly complain of, so far as respects Colonel Medill's notice of the proceedings of the Cherokee commission in his annual report of 1847, is, that he appeared to have given credence to the sworn statements of said board and their official records, rather than to the rumors and declarations of interested claimants who may have been embittered against the board by reason of its adverse action on their cases; and there is certainly no evidence of official misconduct, or want of personal integrity, in all this, on the part of Commissioner Medill, even if the committee should believe that the complaints of the memorialists against the board of Cherokee commissioners were all well founded and just.

In reference to the general imputations of official misconduct, and taking together all the matters brought to the notice of the committee, by the charges made and preferred in debate in this body, on the 9th August, 1848, by the honorable member from North Carolina, and all that has been said before the committee, by the witnesses summoned at his suggestion, the committee have no hesitation in reporting, after a most searching, patient and thorough investigation, that there is an entire failure of all proof to sustain any charge against Commissioner Medill of malpractice or impropriety in office whatever. They deem it but an act of sheer justice to that officer to say, that from all the testimony taken before the committee, and from the correspondence, records, &c., exhibited to it, they could discover not the slightest grounds for even a suspicion of a want of integrity on the part of Commisioner Medill, either personally or officially.

In closing this report, the committee cheerfully bear testimony to the fidelity and impartiality with which the evidence shows that the duties of the office of Indian Affairs has been administered; and in fully acquitting Commissioner Medill of all the charges and allegations preferred against him, they but express their unanimous opinion, in saying that he has performed the various and important duties, imposed on him as head of the Bureau of Indian Affairs, with marked impartiality, fidelity, industry and integrity.

All the testimony taken before the committee, as written down from the mouths of the witnesses, is herewith reported, as also a copy of their daily journal of proceedings; and the committee have only now to ask to be discharged from the further consideration of the subject.

GEO. FRIES, *Chairman*.

I concur in the conclusions of the foregoing report, so far as entirely to acquit Mr. Medill of the charge of corruption in the discharge of his official duties as Commissioner of Indian Affairs.

WILLIAM DUER.

The undersigned concurs in the opinion, that the investigation was made by the committee, and the evidence fully acquits the Commissioner of Indian Affairs of either official corruption or official misconduct in any way.

DAVID OUTLAW.

JOURNAL OF PROCEEDINGS OF SELECT COMMITTEE.

"House of Representatives, *August* 12, 1848.

"*Resolved*, That a committee of five members of this House be appointed to inquire into, and fully investigate, the course pursued by the Commissioner of Indian Affairs in the administration of his official duties, and especially into the charges made and preferred in debate in this body, on the 9th instant, by the Hon. T. L. Clingman, a member of this House; and that said committee have full and ample power and authority to require books and papers, to examine witnesses, and to investigate fully said charges; and that said committee shall report the result of their said investigation at the next session of Congress."

Ordered, That Mr. Fries, Mr. Duer, Mr. Jacob Thompson, Mr. Outlaw, and Mr. Brady be appointed said committee.

Attest:

THO. J. CAMPBELL, *Clerk.*

Washington City, room of Committee on Indian Affairs,
House of Representatives, *December* 10, 1848.

The special committee, appointed under resolution of the House of Representatives of the 12th August, 1848, met, and directed the chairman to notify the Hon. T. L. Clingman that they were prepared to proceed with the investigation of such matters as were referred to them, and to receive any communication he might be pleased to make to them. Present at this meeting, Messrs. Fries, Brady, Thompson, and Outlaw.

The notice above required was given; and, on motion, the committee adjourned to meet at same room on notice from chairman.

December 18, 1848.

Committee met; present, Messrs. Fries, Brady, and Thompson.

A communication was received from the Hon. Mr. Clingman, dated December 11, 1848, marked No. 1.

On motion, the chairman was required to summon Messrs. Starrett, Bibb, and Rogers, which order was carried into effect by issuing summonses for them, and placing them in the hands of the sergeant-at-arms for service.

December 19, 1848.

Committee met; present, Messrs. Fries, Outlaw, and Brady.

On motion, the chairman was required to address another letter to the Hon. Mr. Clingman, requesting him to inform the committee whether a report of his remarks on 9th August last, as published in the National Intelligencer of 11th August, 1848, making certain charges against the Commissioner of Indian Affairs, was correct; and if correct, to furnish the authority upon which said charges were based, or witnesses by whom they might be proven, &c.

Adjourned to meet 20th inst.

DECEMBER 20, 1848.

Committee met; and, on motion of Mr. Brady, adjourned to meet on the 2d January, 1849.

JANUARY 2, 1849.

Committee met, and adjourned, in consequence of all the members not being present, to meet when the chairman should so order.

JANUARY 5, 1849.

Committee met; present, Messrs. Fries, Brady, Outlaw, and Thompson.

On motion of Mr. Fries, the following resolutions were adopted:

Resolved, That this committee will meet on to-morrow at 10 o'clock, a. m., and then proceed to examine such witnesses as may appear on the part of the prosecution.

Resolved, That the chairman be authorized to summon such other witnesses as the defence and the Hon. Mr. Clingman may request.

Resolved, That the chairman procure for this committee the necessary stationery.

JANUARY 6, 1849.

Committee met; present, Messrs. Fries, Brady, Outlaw, Thompson, and Duer.

The committee proceeded to examine the Hon. Geo. M. Bibb. After some time spent therein, on motion, the chairman was required to ask the House of Representatives to furnish a clerk for this committee.

On motion of Mr. Fries, the following resolution was adopted, viz:

Resolved, That the Hon. Mr. Clingman and Mr. Starrett be required to furnish this committee with the names of all the witnesses which we shall be called upon to examine on the part of the prosecution during this investigation, in order that they may now be summoned.

(Notice given as required.)

On motion, the committee adjourned to meet on the 8th inst.

JANUARY 8, 1849.

Committee met; present, Messrs. Fries, Outlaw, Duer, Brady, and Thompson.

Messrs. Stambaugh, Starrett, Rogers, Bibb, Robinson, Butler, and Parris were in attendance as witnesses.

Mr. Starrett presented a series of questions, and asked that the committee require the Commissioner of Indian Affairs (Colonel Medill) to answer the same. The propriety of requiring the fulfilment of this request was considered by the committee, and decided in the negative.

The witness, Bibb, was called up for cross-examination, when it appearing that the testimony, as taken down by Messrs. Brady and

Outlaw, and submitted to the witness to be written out by himself, had not been thus written out, and it was therefore agreed to postpone the cross-examination to another meeting.

Preston Starrett was then sworn and examined in chief, and before the cross-examination was concluded, the committee, after agreeing that Messrs. Fries and Brady should examine all witnesses, adjourned to meet at 10 o'clock, to-morrow.

JANUARY 9, 1849.

Committee met; present, Messrs. Brady and Fries, who it was agreed at last meeting should sit and examine witnesses.

The cross-examination of Mr. Starrett was then proceeded with.

Witnesses present: Butler, Robinson, Rogers, Stambaugh, and Starrett.

The committee then adjourned to meet on 10th instant, at 11 o'clock, a. m.

JANUARY 10, 1849.

Committee met: The following resolution was adopted:

Resolved, That the Commissioner of Indian Affairs be requested to permit one of the clerks of his office to act as secretary to this committee in the investigation of the matters before it, if there is any one willing so to act, and the same can be done without delaying to any material extent the business of said office.

John C. Mullay was then introduced by the Commissioner of Indian Affairs, and received by committee as secretary; when the committee proceeded to examine Johnson K. Rogers, he having been duly sworn.

Committee received a communication from the Hon. Mr. Clingman, asking that David Taylor and John H. Eaton, of this city, and John F. Gillespie, of Tennessee, be summoned, the two first of whom were at once summoned by the Sergeant-at-arms.

The testimony of Mr. Rogers being closed and signed by witness, Col. S. C. Stambaugh was called to the stand and sworn, and his examination proceeded with.

On motion, committee adjourned to meet at 10 o'clock, 11th instant, a. m.

THURSDAY, *January* 11, 1849.

Committee met; present, Messrs. Fries and Brady.

S. C. Stambaugh, whose examination was commenced yesterday, again appeared, and his testimony progressed with; but upon a question touching the merits of the claim of David Taylor for the value of a Cherokee reservation, the witness asked until to-morrow morning to answer said question, and his request was granted by committee. Said question was subsequently withdrawn.

Abraham Butler, Gen. John H. Eaton, and John Robinson were severally sworn as witnesses, and their testimony written down and signed.

David Taylor, a witness, was then sworn, and his testimony proceeded with until 3 o'clock, p. m., when Messrs. Fries, Brady, and Thompson being present, committee adjourned until 7 o'clock, p. m., to meet at the room of the chairman.

JANUARY 11, 1849, 7½ *o'clock, p. m.*

The cross-examinaton of David Taylor, the witness sworn in the morning, was continued until half past 9, p. m., when said witness refusing to answer the following question on cross-examination, viz:

"Are you still the owner of the said reservation, and if not, how and when did you become dispossessed of it."

Committee adjourned until 10 o'clock, to-morrow morning.

FRIDAY, *January* 12, 1849.

Committee met; present, Messrs. Fries, Brady, and Thompson.

Hon. Cave Johnson, (subpœnaed at request of David Taylor,) Gen. John M. McCalla, and A. K. Parris were severally sworn as witnesses, and their depositions written out and signed.

The witness, Taylor, again appeared before the committee, and again refused to answer any further questions. Whereupon the committee, in full meeting, directed the chairman to report the witness's contempt to the House, and then the committee adjourned to meet again at 10 o'clock, to-morrow morning.

SATURDAY, *January* 13, 1849.

Committee met; present, Messrs. Fries, Brady, Outlaw, and Thompson.

After deliberation in relation to the course of the witness, Taylor, the committee directed the chairman to withdraw the resolution offered in the House yesterday, in relation to the refusal of the witness to answer questions; and upon motion, the witness was permitted to sign his testimony as far as it had been taken down, and was discharged.

On motion of Mr. Thompson, it was

Resolved, That the chairman of this committee be instructed to call upon the Secretary of War to furnish this committee such books and papers connected with the action of the commissioners under the 17th article of the Cherokee treaty of 1835–'6, as may be called for by the committee; and that the Secretary of War be requested to send said books in charge of some authorized person who shall preserve them from mutilation or alteration.

Committee then adjourned until 10 o'clock, a. m., Monday, 15th January, 1849.

MONDAY, *January* 15, 1849.

Committee met; present, Messrs. Fries, Outlaw, Thompson, and Brady.

General J. M. M'Calla, Comptroller Parris, General J. H. Eaton, and Charles E. Mix, appeared as witnesses, were sworn, examined, and their testimony signed.

Mr. Medill submitted, in writing for the action of the committee, a motion for leave to continue the cross-examination of the witness, David Taylor, for reasons stated, growing out of the reported proceedings of the House in the case of contempt, &c. Whereupon, the committee, after consideration, directed the chairman to address a note to the editors of the "Union" and "Intelligencer," correcting the mis-statement in the report of the proceedings in regard to the contempt committed by said Taylor.

After continuing in session until 3 o'clock, p. m., the committee adjourned to meet again to-morrow, at 10 o'clock, a. m.

TUESDAY, *January* 16, 1849.

Committee met; present, Messrs. Fries, Brady, and Thompson.

George M. Bibb presented a paper which he represented as his testimony, drawn out, &c., which paper being examined and considered by the committee, (Messrs. Fries, Thompson, and Brady,) it was decided that it be not received, the committee not regarding said paper as evidence, but as an argument by the witness. Whereupon the chairman returned said paper to the witness, Bibb, and he was notified to attend to-morrow morning at 10 o'clock.

Committee then adjourned until to-morrow morning.

WEDNESDAY, *January* 17, 1849.

Committee met; present, Messrs. Fries, Brady, and Outlaw.

David Taylor appeared and was examined touching the identity of the small book described in his testimony on the 11th instant.

On motion of Mr. Outlaw, the secretary was directed to have notice served on Hon. Geo. M. Bibb and Peston Starrett to appear before the committe on to-morrow.

And then committee adjourned to meet again to-morrow morning, 10 o'clock.

THURSDAY, *January* 18, 1849.

Committee met; present, the chairman and Messrs. Brady, Outlaw, and Thompson.

For proceedings of committee upon the testimony of Hon. G. M. Bibb, and objections to parts of it by Commissioner Medill, see testimony of Mr. Bibb.

David Taylor, the witness, having been allowed to appear with counsel, (his own application for leave to appear with such counsel having been granted,) now appearing without counsel, and being interrogated as to the object for which he desired counsel before the committee, and the committee being of opinion that there was no point or subject involved in which an attorney could be of the least advantage or service to the witness, and the witness having waived his request, he was thereupon discharged.

The examination of Hon. George M. Bibb was resumed and concluded; and it being reported to the committee that the witness Starrett, who had been re-subpœnaed to attend this morning, was sick, committee adjourned until to-morrow, 10 o'clock, a. m.

FRIDAY, *January* 19, 1849.

Committee met; present, Messrs. Fries, Thompson, and Brady. No witnesses being present, committee adjourned to meet again on Tuesday next.

TUESDAY, *January* 23, 1849.

The secretary, by direction of the committee, visited the witness Starrett, and reported that the witness considered himself still too unwell to attend upon the committee; but that he would appear to-morrow.

WEDNESDAY, *January* 24, 1849.

Committee met; present, the chairman, and Messrs. Brady and Outlaw.

Preston Starrett appeared and gave his testimony before the committee, *de novo*, having objected to signing his testimony as taken down by Hon. Mr. Brady.

Committee then adjourned to meet again on Friday, 26th instant, at 10 o'clock, a. m.

FRIDAY, *January* 26, 1849.

Committee met; present, Messrs. Fries, Outlaw, and Brady.

Charles E. Mix, the clerk in Indian Office, who has charge of the Cherokee commissioners books and papers, who was examined before the committee, (on the 15th instant,) again appeared by request of committee, with the Cherokee commissioner's books of decrees, &c., and gave testimony in relation to said books, &c., which was signed.

A subpœna was ordered to be issued for General Duff Green, whose name had been furnished as a witness by honorable T. L. Clingman.

Committee then adjourned until to-morrow, 10 o'clock, a. m.

SATURDAY, *January* 27, 1849.

Committee met; present, Messrs. Fries and Thompson.

General Duff Green appeared as a witness, his testimony taken down and signed, and then committee adjourned to meet again on Tuesday, 30th instant.

TUESDAY, *January* 30, 1849.

Committee met; present, honorable Messrs. Fries, Brady, and Thompson.

On motion of Mr. Brady it was

Resolved, That the chairman prepare a report to the House upon the evidence taken before this committee, acquitting Colonel Wm. Medill, of the charges and allegations preferred against him as to his management of the office of Indian Affairs; and be it further

Resolved, That said report shall express the opinion of the committee, founded upon the evidence aforesaid, that Commissioner

Medill has discharged the duties of his said office with impartiality, fidelity, industry, and integrity.

TESTIMONY

Taken before the select committee appointed to investigate charges against Wm. Medill, esq., Commissioner of Indian Affairs:

WEDNESDAY, 10*th January*, 1849.

Johnson K. Rogers, sworn.

Question by committee. Do you know any thing in the course pursued by Wm. Medill, Commissioner of Indian Affairs, in the administration of his official duties, showing corruption, or affecting his integrity as a public officer? If so, state the same particularly.

Answer. Corruption is a broad term, signifying "wickedness, perversion of principle, the means by which any thing is vitiated, depravation," none of which terms apply to Colonel Medill, in the discharge of his official acts, as far as my knowledge extends. I have known Colonel M. before and since he has been Commissioner of Indian Affairs, up to the present time, and I must say I was gratified at the succession; his predecessor, T. Hartley Crawford, esq., being a great advocate for the "inherent right" in the government, to instruct the board of commissioners as to the nature of the duties to be performed by them—a right which I have doubted, and still doubt; and think that it is not authorized nor warranted by the language expressed in the 17th article of the Cherokee treaty, of 1836. Since Mr. Crawford went out of office, and Colonel Medill succeeded him, a board of commissioners was appointed, and some of the official acts of Colonel Medill, in connexion with that board, I approved, and some I disapproved—and I will state what they were: There was a communication of his to that board of August 27th, 1846, of which I disapproved. The second official act, and which I approve, was a letter of Colonel Medill, dated April 16, 1847, and addressed to B. H. Brewster, esq., Philadelphia, (copy of the letter referred to, furnished to the committee, was in the hands of the witness;) and the last official act connected with this investigation of Colonel Medill's, and which I disapprove, is contained in his annual report, of November 30,1847, pages 13 and 14, in these words: [here witness read extract.] "Those commissioners, being the fourth board which had been appointed under that article, convened at the capitol for the transaction of business, July 31, 1846, and continued in session about one year—the period for which the commission had been renewed. Ample notice of the time, and place of their meeting, and of their readiness to enter upon the discharge of their duties was given, and every necessary facility afforded to the claimants and their attorneys, for the presentation and thorough examination of their respective demands." This appears not to be a quotation from the report made by the Cherokee commissioners, dated Washington, July 23, 1847, not differing, however, materially as to the substance. The balance of the paragraph, in this report of Colonel Medill, and down to the words, "and undecided," appears to be a quotation from the Cherokee commissioner's report—a fact of which I was not aware in reading the papers accompanying the annual message of the President, and containing the Indian Commissioner's report; and I do not charge Colonel Medill with being the author of that quotation. [Witness read again:] "The recorded proceedings of these commissioners, in which are set forth their opinions at length in every case, evince a degree of ability, impartiality and patient investigation, which would render their decisions 'final' in the judgment of every one, who is not influenced by interest, if indeed they were not expressly made so by the provisions of the treaty." This appears not to be a quotation, but is the commissioner's own remark. The reason why I disapproved of this was, my approval of his letter before referred to, of April 16, 1847, in which he requires the return of Mr. Brewster, from Philadelphia to this city, to discharge his official duties as commissioner; and I could not, therefore, account for Colonel Medill's approval, in his annual report, of the report of the board of commissioners to the President. It seemed that Colonel Medill, as well as the President, was satisfied of the just complaint of the claimants at that time, the date of the letter referred to; and knowing, as I do, that the report of the commissioners contains statements wholly void and destitute of truth. That board, to my certain knowledge, was not in session as a board three months out of the twelve; and Mr. Brewster, one of its members, was not in this city more than three months during the whole twelve.

Question by Commissioner Medill. In those official acts of the Commissioner of Indian Affairs, of which you disapprove as above, do you intend or in the slightest degree desire to impute a want of integrity in the commissioner?

Answer. I do not wish to be so understood. I do not doubt but that he acted in accordance with his judgment in these matters, but about which I disagree in opinion with him.

By same. Do you know any thing or fact in relation to the official character or course of the commissioner, William Medill, which in any way affected, in your judgment, his integrity as an officer or as a man? and if so, please state it?

Answer. I do not know of any thing or fact of the kind, other than as above stated.

By same. How long have you known the commissioner, and what have been your means of becoming acquainted with his official acts and course?

Answer. I have known Colonel Medill ever since March, 1844, before he was Commissioner of Indian Affairs, and my means of becoming acquainted with him in his official capacity grew out of my connexion with Cherokee claims, which necessarily brought me frequently before his office; and I always found him disposed to do everything that he could consistently in the prompt discharge of business, so far as my intercourse with him and his office was concerned.

By same. Have you read the remarks of Mr. Clingman in relation to the course and conduct of the Commissioner, as reported in the Daily National Intelligencer of August 11, 1848; and if so, do you know any facts tending to sustain the charges therein preferred against said commissioner?

Answer. I read the remarks referred to as reported in the National Intelligencer of that date. I know of no facts in relation to the official conduct of Colonel Medill of an improper character other than I have already stated.

By same. Has the Commissioner of Indian Affairs, Mr. Medill, ever had anything to do with the claim of David Taylor, then pending before the House; and if so, what?

Answer. He has not, so far as my knowledge extends.

By same. Are you acquainted with the merits of that claim; and if so, please state the basis of such claim, and all the facts tending to show its true character?

Answer. It is a claim for the value of a life estate reservation under the treaties of 1817 and 1819 with the Cherokees; David Taylor, as the head of an Indian family, himself being a white man, was entitled only to a life estate in said reservation, the children being entitled to the reversion in fee, and the widow her dower in case of his death. I understand that the land covered by said reservation was sold by the State of Tennessee, under some act of the State legislature, and was purchased back by D. Taylor for $800; that David Taylor afterwards sold the said land to a man named Tipton, as I understood, for a valuable consideration. I know that David Taylor made application to the first board of Cherokee commissioners, under the thirteenth article of the treaty of 1835–'6, for the money paid by him to the State, with interest thereon, and that he obtained a decree and was paid said sum, being $800, with interest up to the date of the decree in his favor, amounting in all to upwards of $1,500. He afterwards preferred a claim to the Indian board of commissioners, Eaton and Hubley, for the unimproved value of the reservation, who decided against said claim, alleging that it had been adjudicated by the previous board; afterwards there was a motion made for review, and that motion was granted while the commission was sitting in this city. Subsequently, the case being thus opened, and while the commission was sitting at Murphy, North Carolina, being in the vicinity of the reservation, they ordered their valuing agents to appraise David Taylor's reservation, with others. When the board completed their labors in North Carolina, they returned to this city, and commenced the adjudication of claims, and they were dismissed from office by President Tyler before again taking up said claim of David Taylor, so far as I know and believe; and, so far as I am aware, said claim has never since been acted favorably upon by any subsequent board of commissioners.

And further witness saith not.

J. K. ROGERS.

S. C. Stambaugh, sworn.

Question. Do you know anything in the course pursued by William Medill, Commissioner of Indian Affairs, in the administration of his official duties, showing corruption or affecting his integrity as a public officer? If so, state the same particularly.

Answer. Not a particle. Nothing that would produce such an idea.

Deposition left to be continued if necessary; and then committee adjourned to meet to-morrow morning at 10 o'clock.

THURSDAY, *January* 11, 1849.

Committee met: present, Messrs. Fries and Brady.

S. C. Stambaugh again appeared and his examination was resumed.

Question by Commissioner Medill. How long have you known William Medill, the present Commissioner of Indian Affairs, and what have been your means of becoming acquainted with his official course and acts?

Answer. I have only known him, to judge of his official acts, since he has been Commissioner of Indian Affairs. My first business in in his office was in May, 1845. I believe I have had more legitimate business in that office, connected with the Cherokees, as well in relation to their claims arising under the treaty of 1835, as with the claim of the old settlers to the country west, than any other individual connected in that business. I was always fully heard, and though not always successful, considered that I was always fairly treated by the commissioner. I consider no business connected with the Indian Department so complicated or difficult to adjust as the business of the Cherokees arising under the various treaties.

By the same. What has been his course in relation to industry, efficiency, impartiality and personal integrity, so far as you have observed or have had reason to believe?

Answer. I can answer that by saying it has been equal to that of any other officer of the government with whom I have ever transacted business. I may add that I have always found him at his desk in discharge of his duties, and I have no recollection of ever being refused a hearing on business with the bureau; as to his integrity, I have the most implicit confidence in it.

By the same. Have you read the remarks of Mr. Clingman in relation to the commissioner, as reported in the Daily Intelligencer of 11th August, 1848; and if so, please state any facts tending to sustain the charges therein preferred?

Answer. I had no recollection of it until my attention was called to it this morning. Upon reading this report, I feel convinced that Mr. Clingman would not have made these remarks if he had been in possession of correct information on the subject. My opinion is that the Commissioner of Indian Affairs is innocent of every thing contained in that accusation.

By the same. Has the present Commissioner of Indian Affairs, so far as you know, ever had anything to do with the claim of David Taylor, then pending before the House; if so, what?

Answer. As an individual or isolated case, I never knew that he had. Taylor's case may have been embraced by the general terms of his letter of August 27, 1846, to the board of commissioners then in sesssion.

And further witness saith not.

S. C. STAMBAUGH.

Abraham Butler, sworn.

Question by committee. Same as first to Rogers and Stambaugh.

Answer. I don't know anything. Witness has never had any transactions with Colonel Medill or the office of Indian Affairs.

By Colonel Medill. Have you read the remarks of Mr. Clingman in relation to the course and conduct of the commissioner, as reported in the Daily Intelligencer of 11th August, 1848; and if so, do you know any facts tending to sustain the charges therein preferred against said commissioner?

Answer. I have read the remarks, which have been placed in my hands this morning; I do not know any facts tending to sustain said charges.

And further witness saith not.

ABRAHAM BUTLER.

Gen. John H. Eaton, sworn.

Question. Same as first to other witnesses.

Answer. I do not, either officially or privately.

By Colonel Medill. Same as second question above to A. Butler.

Answer. I know of none.

And further witness saith not.

JNO. H. EATON.

John Robinson, sworn.

Question. Do you know anything in the course pursued by William Medill, Commissioner of Indian Affairs, in the administration of his official duties showing corruption or affecting his integrity as a public officer? If so, state the same particularly.

Answer. I do not know of anything.

By Colonel Medill. Same as the second question to A. Butler.

Answer. I do not know anything in regard to Colonel Medill tending to sustain the charges made against him in those remarks.

And further witness saith not.

JOHN ROBINSON.

David Taylor, sworn.

Question by committee. Do you know anything in the course pursued by William Medill, Commissioner of Indian Affairs, in the administration of his official duties, showing corruption or affecting his integrity as a public officer? If so, state the same particularly.

Answer. For a little bit I cannot answer; I am not able to give an answer without some little time to reflect; I am not a scholar, and I want to think about the matter first. I want to do justice to Colonel Medill, to myself and my God.

Question by committee. When was you subpœnaed?

Answer. I was subpœnaed last night.

Question. Did you know before last night that this investigation was progressing?

Answer. I heard before that it was proceeding, but I did not learn the questions or what it was about exactly.

Question by committee. Do you know of any books or papers having been altered, torn, or in any way mutilated in the office of the Commissioner of Indian Affairs; if so, what books and papers were they, how altered, torn or mutilated, when and by whom done, and what were the contents of, or entries upon, the parts so altered, torn out or mutilated?

Answer. Mr. Dixon H. Lewis, when the last board was in session, (Brewster and Hardin,) looked at the books and papers, and had leave of the commissioners to take one of the books home with him. He had one of them at his room; he undertook to show me where there were leaves, a leaf or two, missing from it; I can't recollect; it was last session, as well as I recollect, Gov. Bagby went with me to Colonel Medill's room to have leave to see the books; Colonel Medill couldn't allow him to see them. He then wrote a resolution to offer in the Senate; he read it to me; calling, as well as I recollect, but upon whom it called witness does not remember, for two books. A few evenings after that I was at Colonel Johnson's, Postmaster General. (Here witness was about to state what Colonel Johnson had said to him, but was not permitted by committee.)

Question by committee. Whose account was it that was written or stated upon the leaves you state you saw had been torn out?

Answer. I don't know whose account it was.

Question by committee. Have you any reason to believe that there were any leaves torn out or altered which contained decisions or accounts by any board of commissioners in your own favor?

Answer. I believe there were changes made; I think that the record had been changed, from what Mr. Lewis showed; but at what time and by whom I don't know.

The first question was repeated to the witness by the committee.

Answer. When Governor Bagby went with me to Colonel Medill's room, when we couldn't get to see the books, (we had been talking below, and I had told him that the books could not be seen,) Governor Bagby said *he* could see them. Governor Bagby then asked the commissioner for permission to see the books; Colonel Medill told him he could not see them; Governor Bagby thought it hard; Colonel Medill said it was not him who refused him leave to see the books, it was by higher authority—the books were closed by the commissioners, or something to that amount; I have nothing further to say that I can recollect, in relation to the commissioner's refusal to Governor Bagby to see the books; I have no further cause of complaint against Colonel Medill that I can think of.

Question by committee. If there is anything other than what you have stated about which you complain of Colonel Medill, please state it?

Answer. I thought that, at the time the Committee of Ways and Means of the House was considering my claim, at the last session, if they had had the use of the books, in place of what they had heard from Colonel Medill, it would have been better for me—that it would have changed the thing, and I would have got my claim along. I don't know that it would have been so, but I am of that opinion.

First question by commissioner. Have you ever had any business before the office of Indian Affairs since Mr. Medill has been in charge of the same—if so, state what was the nature of said business?

Answer. When my reservation claim was before the attorney general, the office was called upon a few times for information, by Senator Chalmers and the attorney general, at my request, as well as I can recollect. I do not recollect at this minute of any other business have had at the office besides these calls for information about my reservation claim, which was then before the attorney general, since Colonel Medill has been commissioner. I mean, by my reservation case, the same that was since before the Committee of Ways and Means, and before the House when Mr. Clingman made his remarks; I had but the one reservation claim—I claimed for it as unimproved land. In relation to the book Mr. Lewis obtained from the Cherokee commissioners, I saw it at Senator Lewis's room, in this city; it was a small book, containing the action of Eaton & Hubley, upon claims allowed and disallowed, as commissioners under the Cherokee treaty, as well as I mind. As well as I mind, one leaf was cut out, or looked like it had been, some place near the middle or two-thirds of the book—it was ruled paper, and it was by the ruling the cutting out of the leaf could be detected; I do not mean that a leaf was *missing* at this place, but it looked like one had been cut out and another put in, the paper being different. In another place in the book there were other leaves missing—cut out—besides the leaf spoken of above; it looked like they had been cut out—there were leaves missing at any rate; I can't tell whether it was the beginning or end of the book these leaves were cut out; I am not able to say which it was, but it was near one or the other; I do not know when these leaves were cut or taken out, nor by whom it was done; I do not know whether these missing leaves contained any entry of a decree or allowance in my favor, and I don't know what was upon any of these leaves.

Question by Colonel Medill. Was there any decree, award or allowance made in your favor by Messrs. Eaton & Hubley, in any case or upon any claim whatever, during their existence as commissioners under the Cherokee treaty of 1835–'6, and, if so, in what particular case or cases, or for what amount?

Answer. There was one case I am certain of, of an award in my favor, but I can't recollect the amount; I am of the opinion that there were other awards in my favor, made by Eaton and Hubley; as to the amount I can give no statement. The case I am certain about was my preëmption case, for which a certificate was issued, and afterwards paid, but at a great sacrifice to me.

By the same. Did you present any other claim to Commissioners Eaton and Hubley than the one for preëmption, as above stated—if so, how many, what were they for, and what were the decrees of the said board upon them?

Answer. I presented my claim for the value of the reservation, which I have spoken of before, for the value of the land as unimproved lands; I had but one reservation claim. I don't know what the decree was; I do not know whether the commissioners allowed the claim or not; I never heard the decree read.

By the same. Did you ever present the same reservation claim to a subsequent board of commissioners under the same treaty—if so, to which board, and what decrees or awards were rendered thereon by such subsequent board?

Answer. When Messrs. Washington and Mason were sitting as a board, I had a certified copy from the Commissioner of Indian Affairs of the valuation by the appraisers appointed by Eaton and Hubley of my reservation; this I presented to President Tyler, and asked his interference. He sent me with it to the Secretary of the Treasury, Mr. Bibb, who endorsed upon the paper an opinion in favor of its payment, and sent me with the paper to Second Auditor Lewis; Lewis told me to take it to Second Comptroller Parris. After seeing Parris two or three times about it, he directed or advised me to take it to the commissioners, Washington and Mason, and to get a certificate of the award allowing the claim; and I did present to them the paper I had first shown to President Tyler.

By same. Did Mason and Washington act on your claim thus brought before them; and, if so, what was the character of their decree?

Answer. They undertook to act, and left it for further consideration. They did decide against *my* interest, and in favor of the heirs; but at last they left it open for further consideration, or for other evidence, as well as I can mind. The certificate spoken of above, the same I presented to President Tyler, was left with Commissioners Mason and Washington, and I never got it back again. I never saw it, to my knowledge, afterwards. When I handed said certificate of the appraisement to Secretary Bibb, I said nothing to him about its character; he read it, and made the endorsement described, without my talking to him at all about it, as well as I now recollect. Before Mr. Crawford left the Indian Office, I applied to him for another certificate like the first one—the certificate about the appraisement spoken of above—and Mr. Crawford gave me one much the same as the first one. This second certified copy Senator Chalmers presented to the present

Secretary of the Treasury, Mr. Walker, who referred it to Attorney General Mason. Mr. Mason gave an opinion in favor of the claim, and the Secretary of the Treasury directed the auditors to settle it in accordance with the opinion of the Attorney General. The Second Auditor, in auditing the account, required that I should give bond and security that the money should be paid over to my heirs at my death. When I went to the Second Auditor, prepared to give the bond, the auditor told me that the proceedings had been arrested by order of the President. I then had an argument written and presented, upon which the President directed the Secretary of the Treasury to investigate the case. The Secretary of the Treasury referred it again to the Attorney General, who again gave an opinion upon it, different from the first; the substance being, that if he had had the same information before him when he gave the first opinion that he had before him when he gave the second, he would not have decided in favor of the claim as he did at first. I then applied for copies of the papers, and the Secretary of the Treasury directed the auditor to furnish them; and I obtained copies of both of the opinions of the Attorney General. I then had an argument written, and handed it to Secretary Walker; he wrote upon the paper and sent me to Congress with it; and Mr. Badger, in the Senate, moved an amendment to the civil and diplomatic bill, appropriating the amount of my claim. It passed the Senate, and, when it went to the House, it was referred to the Committee of Ways and Means. When the claim was before said committee, I was told in the rotunda that Colonel Medill was making an argument before the committee against my claim, and that I had better go there. I went, and, much to my surprise, found Colonel Medill there. When I got to the room of the committee, Colonel Medill, I suppose, was pretty well through; he was talking about the decision of the last board, and mentioned something about a protest that I had handed the last board of commissioners, Brewster and Hardin. He did not speak but a minute or two after I got to the room. I understood him to say that the last board had acted against me. I don't know of anything else I can think of that Colonel Medill said, to which I take exception. I recollect distinctly that Colonel Medill mentioned about the protest; but his precise words I can't remember. I had handed *all* the papers to Mr. Lewis; he handed them all to Mr. Badger, except the second opinion of the Attorney General and the argument which was presented to the President, which last Mr. Lewis handed back to me, telling me they were of no use. The papers with the Committee of Ways and Means was the first opinion of the Attorney General, the action of the Secretary of the Treasury, auditor, and comptroller, &c., and not the second opinion. I never entertained any idea of presenting my claim to Brewster and Hardin, because I considered it a settled account. The book was procured from them by Mr. Lewis to examine the case, I having heard that there had been an alteration in the books about my claim.

By Colonel Medill. Did you at any time offer to employ Senator

Westcott, or any other person, to present the said reservation claim to the last board, Messrs. Brewster and Hardin, for their action, and to attend to the same?

Answer. I decline to answer this question at the present.

By same. Had you heard that Senator Westcott and Commissioner Brewster were related, at the time you spoke to Senator Westcott about this claim?

Answer. About that time I heard that they were connexions. My claim was never before Colonel Medill, as I know of, for his official action; but he was called on for information about it several times. I never said to any one that Colonel Medill refused to favor my claim because he was not paid for doing so, and my belief now is, and always has been, that if I had offered the whole amount to him it would not have changed his mind about it. I never knew of any fact or thing, tending to establish a charge of corruption upon the present Commissioner of Indian Affairs, or upon his office, that I can now in any way recollect. I never heard or knew of anything of the kind.

By same. Please state the nature and merits of this reservation claim?

Answer. It is a reservation taken by me, as the head of an Indian family, under the treaties of 1817 and 1819, and is located in Monroe county, Tennessee, on the waters of the Tennessee river. It was surveyed off to me some time after the treaty of 1819; having been in possession of the land from the fall of 1817.

By same. Are you still the owner of the said reservation, and if not, how and when did you become dispossessed of it?

Answer. I don't feel that I should answer any other question. I ask that the books and papers be all brought to the committee.

his
DAVID + TAYLOR,
mark.

Test: J. E. Brady.

Friday, *January* 12, 1849.

Committee met: present, Messrs. Fries, Brady, and Thompson.

Hon. C. Johnson, sworn. (Subpœnaed at request of D. Taylor.)

Question by committee. Same as first question to J. K. Rogers.

Answer. I do not.

Question by committee. Have you any knowledge of the change, alteration, or mutilation, of any books of the Indian Office, or of the Cherokee commissioners in said office; and if so, by whom was said alteration, change, or mutilation made, and when?

Answer. I have no knowledge of any such thing; I never saw said books, as well as I remember.

Question by Taylor. Did you tell David Taylor at any time that the books of the Cherokee commissioners would not be sent to Congress; and that Governor Marcy had told the President that the reason why they would not be sent was, that they had been changed?

Answer. I do not remember any such conversation with Mr. Taylor, but I recollect that I heard Governor Marcy say, in the course of some conversation, and when speaking of the impropriety of sending the books away from the department, that they ought not to be sent to the Senate, lest they *might* be altered or changed. This was said in casual conversation. I may have been mistaken in my answer to Mr. Taylor's first question, in saying that I had never seen the Cherokee books; I may have seen said books while acting as chairman of the Indian Committee of the House of Representatives. Some books and papers were brought before the committee by Colonel Gardner, who was secretary to a board of commissioners; but I do not know whether these were all the books of the commissioners or not. I know of no report made by Colonel Gardner to the committee, and if such an one was made, I can recollect nothing about it; it was returned, if there was such a one, with the papers.

Question by Colonel Medill. Have you any acquaintance with the official course of Colonel Medill, Commissioner of Indian Affairs; if so, what has it been in relation to efficiency, impartiality, and personal integrity?

Answer. I am as well acquainted with the official course of Colonel Medill as that of any other officer not immediately under my control, and have always believed that his office was among the best conducted in the city, and never had reason to doubt, in the least, the impartiality and integrity of that officer; and have regarded it as having been conducted with as much efficiency, impartiality, and integrity, as any office in the city.

And further witness saith not.

C. JOHNSON.

A. K. Parris, sworn.

Question by committee. Same as first to J. K. Rogers.

Answer. Nothing.

Question by Colonel M. Have you any acquaintance with the official course of William Medill, Commissioner of Indian Affairs? If so, what has it been in relation to efficiency, impartiality, and personal integrity?

Answer. In the discharge of the duties of the office of second comptroller, I have had much official intercourse with the Commissioner of Indian Affairs, and have found Colonel Medill efficient and impartial as an officer, and have never entertained a doubt of his personal integrity.

And further witness saith not.

ALBION K. PARRIS.

General John M. McCalla, sworn.

Question by committee. Same as first to J. K. Rogers.

Answer. I certainly do not.

Question by Colonel Medill. Have you any acquaintance with the official course of William Medill, Commissioner of Indian Affairs? If so, what has it been in relation to efficiency, impartiality and personal integrity?

Answer. I have only a general knowledge on that subject; but so far as I am acquainted with Colonel Medill's official conduct, I have always regarded him as a very good officer and a man of integrity.

And further, witness saith not.

JOHN M. McCALLA.

JANUARY 12—2 *o'clock, p. m.*

Members of committee all present.

Hon. Mr. Brady stated to the committee the circumstances of the refusal of Mr. Taylor, the witness, to answer the question as stated upon the journal of the committee. (For proceedings, see journal, 12th January, 1849.)

John H. Eaton, who was examined in chief on Thursday last, again appeared before the committee; but his further examination was postponed until Monday next.

Mr. Mix, a clerk in the office of Indian Affairs, brought from the Secretary of War the books called for in the resolution adopted this morning.

Committe adjourned until Monday, 15th, at 10 o'clock, a. m.

MONDAY, *January* 15, 1849.

Committee met: present, Messrs. Fries, Brady and Outlaw.

Comptroller A. K. Parris was again sworn. Witness states, upon interrogatories touching payments upon certificates issued by Cherokee commissioners, that since the 15th June, 1844, the date of the passage of the law taking jurisdiction in Cherokee cases settled by Cherokee commissioners from the War Department, and casting it upon the Treasury Department, that, so far as he understands, the office of Indian Affairs has in all cases declined administrative examination. In relation to payments to agents or attorneys, witness states that allowances were made in form by the Secretary of War, and that there were some such cases, one or two of which he recollects were made to Colonel Stambaugh; but he has no recollection of any action on such cases by the Commissioner of Indian Affairs. Witness further states that prior to the treaty of 1846, all allowances for reservations made by Cherokee commissioners, sitting under the treaty of 1835–'6, were charged upon and paid out of the five million fund. In the treaty of 1846 it is provided, that reservations ware not properly chargeable upon said five million fund, but were properly chargeable upon the treasury of the United States. After the ratification of the last named treaty I declined, as comptroller, to pay some of the certificates of said Cherokee commissioners, for the reason that there was no appropriation applicable to their payment.

And further witness saith not.

ALBION K. PARRIS.

General John M. McCalla was again sworn.

Question. Please state whether there was any administrative action by the Commissioner of Indian Affairs upon any of the allowances made on certificates issued by the last board of Cherokee commissioners, Messrs. Brewster and Hardin?

Answer. I have examined the papers in the cases in which allowances were made by said commissioners, and I find no evidence that any administrative examination or action whatever was had in any of said cases by said Commissioner of Indian Affairs. I have before me the certificates of the Cherokee commissioners, as well in the cases where the awards or allowances have been paid, as in those where these awards have not yet been paid, and I find no evidence of any action whatever in either class of cases by the Commissioner of Indian Affairs. I have brought these papers this morning from my office, where they belong on file.

And further witness saith not.

JOHN M. McCALLA.

Charles E. Mix sworn.

Question. Mr. Mix, please produce the book of decrees made by Messrs. Washington and Mason, and Eaton and Hubley?

Answer. (Witness exhibiting a book marked F.) This is the book containing all of said decrees. This book, F, contains the recorded decrees of Eaton and Hubley, and of Washington and Mason. (Witness then exhibited two books designated as vol. 1 and 2, purporting to be the docket of claims submitted to Eaton and Hubley.) Here is a book designated on the cover as "docket," which is regarded as a docket of cases presented to Washington and Mason. Here are two vols. endorsed "records," containing the decrees and proceedings of Brewster and Hardin. Here is a book, marked "F, valuation of Cherokee improvements," which I identify as having accompanied other books and papers transmitted in 1839 by the first board of Cherokee commissioners. The books referred to by me were put in my possession by direction of the Secretary of War, in compliance, as I understood, with a resolution of this committee, to present to said committee.

Question by committee. Please state whether these books are now in the same condition in which they were when deposited in the Indian Office?

Answer. The books are in the same condition now as they were when they came into the office of Indian Affairs, as a branch of the Department of War, by order of the President of July 24, 1847; and I am satisfied that if there has been any alteration or erasure on any of said books, it has not been done at the office of Indian Affairs at any time. The only alteration in any case, of any kind or description, now indicated, wherein any entry appears different now from what it was originally, when the records were in the office of Indian Affairs, is that of a case entered as No. 76 on the docket of Eaton and Hubley under the head of reservation claims, in which the entry appears different now from what it was when the book was turned over to the commissioners, Messrs. Washington and Mason; this alteration consists in the erasure of the words "by himself" as entered originally on the right hand side of the page, in the claim of David Taylor for a reservation, and the words "for review, J. H. Eaton," inserted; by which I understand that J. H. Eaton, instead of the claimant, was to represent the case as counsel before Messrs. Washington and Mason. I am acquainted with the hand writing of General Eaton, and I believe it to be his hand writing, as it is admitted by General Eaton, now present before the committee. And the alteration now referred to was made prior to the appointment of William Medill as Commissioner of Indian Affairs.

The committee exhibited to Mr. Mix a small book brought here by General Eaton, one of the former commissioners, and claimed by General Eaton to be his private property, and Mr. Mix was asked whether said small book was ever sent to the department or deposited there as one of the books connected with the Cherokee commissioners. (This book is supposed by the committee to be the book referred to in the testimony of David Taylor, and the same obtained by Senator Lewis and carried to his own room, by permission of Messrs. Brewster and Hardin, from which leaves were said to be cut out and one other leaf inserted, &c.)

Answer. This book—(referring to the book described above,) purporting to be notes of evidence taken by John H. Eaton, one of the former commissioners, taken in the summer of 1843, from which, in the beginning of the book, twelve leaves are cut out, and about the middle of the book one page is inserted—I unhesitatingly declare never formed any part or parcel of the records transmitted to the office of Indian Affairs in connexion with the several boards of Cherokee commissioners, nor was the said book ever in the office of Indian Affairs, either on deposite, or otherwise to my knowledge. I have no recollection of ever seeing this book until this morning, and from my official station in the office, as connected with said Cherokee records, I would have been apprised of it, or have known it, if said book had ever been in the Indian office.

And further this witness saith not.

CHARLES E. MIX.

General John H. Eaton appeared, and his examination was resumed:

He produced a small book, marked on the cover "Exama.," and which, he says, contains the testimony given in by the Indians under oath during the time he acted as a Cherokee commissioner with Mr. Hubley, of Pennsylvania, in Cherokee county, North Carolina; that all the entries in said book are in his own hand writing; that, at the commencement of the book, there are some 10 or 12 leaves which he himself cut out, there being on them some old valueless memoranda, written by the first board or some of their clerks. There is one leaf pasted in about the centre for the purpose of recording those Indians who were on the census and those not; and also certain valuations which were ordered to be made. This, as stated, is a mere memoranda book to preserve the testimony of the Indians; and no decree was ever written in said book, but in a different one, marked F, now present on the table of the committee, being one of those produced by Mr. Mix, by direction of the Secretary of War. This book (the small book of memorandam) I consider my private property, but which I loaned to both the last boards, and it was by them afterwards returned to me. It never was in the possession of the present Commissioner of Indian Affairs, as far as I know or believe. There was no decree, order, or entry in favor of David Taylor, or any other person, on those missing leaves. The following note appears on said book:

"NOTE.—Make an order for the valuers, while in the neighborhood of D. Taylor and other reservees there, to examine and report for future adjudication, in the event their claims be allowed."

But no decree in favor of his reservation, right, or claim was ever made by Mr. Hubley and myself.

And further witness saith not.

JNO. H. EATON.

General Eaton adds:

The reason why the above order was made to have David Taylor's and other reservations valued, was that the valuers being about to proceed to that section of country, the direction was given to prevent any after expense in the event we should allow his reservation claim.

JNO. H. EATON.

Committee adjourned until to-morrow, 10 o'clock, a. m.

TUESDAY, *January* 16, 1849.

Committee met: present, Messrs. Fries, Brady and Thompson.

For action of committee upon a paper presented by Geo. M. Bibb, see journal proceedings of committee of this date.

Committee adjourned until 10 o'clock to-morrow, a. m.

WEDNESDAY, *January* 17, 1849.

Committee met: present, Hon. Messrs. Fries, Brady and Outlaw.

David Taylor appeared upon a subpœna issued yesterday. The books were shown to witness, and, after examining the small book brought by General Eaton, and claimed by him as his private property, and particularly described in the testimony of General Eaton on Monday last, the witness said: This he thinks is the book, and, with his hand on the page which had been wafered in—the ruling being up and down the page, while the body of the pages had the ruling across the page—said this is the book. While secretary was reading the above statement to the committee, witness interrupted him by saying that he can't say whether this is the book or not. He rather thinks the book he meant was a little larger. I *can't* say whether it is the book or not. After thinking of it, as well as he can mind, he inclines to think the book was a bigger book than this.

Question by Hon. Mr. Brady. Was the book which you saw in the room of Mr. Lewis the docket of General Eaton, one of the commissioners?

Answer. I believe it was. It was said to be, and I was told it was, and that it was a part of the record. (Upon his attention being directed to the particular question last above, witness said he would answer no further questions.) Upon remarks of Hon. Messrs. Thompson and Outlaw, witness said "that most of the book was in the hand writing of General Eaton, as he was told; and he believes it was in General Eaton's hand writing; and I thought it was General Eaton's docket."

The dockets of Eaton and Hubley, foolscap size, marked vol. 1 and 2 were shown to the witness; and he was asked if he had ever seen said books?

Answer. I do not know whether I ever saw said books. I don't think I ever did.

There was then exhibited to Mr. Taylor, book marked F, containing the opinions and decrees of Messrs. Eaton and Hubley; and witness was asked if he had ever seen said book.

Answer. I don't remember that I ever saw that book before—there's no mark about it, by which I can remember whether I ever saw it or not.

his
DAVID + TAYLOR,
mark.

Test: J. E. Braby.

Thursday, *January* 18, 1849.

Committee met at 10 o'clock, a. m.: present, Hon. Messrs. Brady, Outlaw, and Thompson.

The notes taken by Hon. Mr. Brady, of the testimony of George M. Bibb, were read over to committee, in presence of the witness, Bibb, and such corrections as witness suggested were made by Mr. Brady.

Commissioner Medill presented his objections in writing, to portions of the testimony of George M. Bibb, in the following words, viz:

"Mr. Medill objects to all that part of Mr. Bibb's testimony which impeaches the truth of the report of Messrs. Brewster and Hardin to the President, of 23d June, 1847; the same being wholly irrelevant to the issue before the committee, and the commissioners not being present to defend themselves.

"He also objects to the receipt by the committee of the letter of Mr. Bibb to the Commissioner of Indian Affairs, in reply to the letter of the commissioner refusing him the books and papers of the Cherokee commissioners; the same being an argument, and in no way pertinent to the matter under consideration."

The first objection was overruled by the committee, and the second objection was sustained.

The following is a true copy of the evidence of George M. Bibb, esq., as taken down by Hon. Mr. Brady, of the committe, on the 6th instant, viz:

It was a matter of great notoriety that one of the two commissioners, Mr. Brewster, was in Philadelphia attending to his practice. This became so onerous as to produce a remonstrance to the President. They were commissioners under the Cherokee treaty, the 17th article. These are inducements to the testimony. The non-attendance of the commissioners produced a memorial to the President of the United States, which was referred to Commissioner of Indian Affairs. Upon that memorial being referred to Mr. Medill, two letters were written by Mr. Medill, one addressed to the two commissioners asking for an explanation; another letter was written to Mr. Brewster in Philadelphia, the letter will explain itself. I say that the commissioners were absent again and again, and produced complaint. The commissioners were Messrs. Hardin and Brewster. After those two letters were written, Mr. Medill made a written report—annual report, in which he referred to those commissioners. The commission terminated, perhaps in July. The last acts of the commissioners were on the 23d July, 1847. The report was made to the next session of Congress. The statement to which I refer in the report, is that part which speaks of the conduct of the commissioners.

Question by Mr. Thompson. Did the commisioners act upon all the claims before them?

Answer. I was engaged in but few claims; before the termination of the commission I received claims which were not presented. Those that were under my charge were acted upon. When I saw how the commissioners decided, I told those for whom I was engaged, that I would not compromise my dignity as a lawyer, by appearing before them. After the correspondence of Mr. Medill with the commissioners, the commissioners met and went on with their duties. The report referred to in this evidence is found, Ex. Doc. No. 8, 1st session, 30th Congress, page 744.

I know that Mr. Brewster was away; I went to Mr. Brewster's house; his sisters told me he was in Philadelphia, and he was absent a considerable time; Mr. Hardin was here all the time, I believe; there was notice published in the public papers; the commissioners would not permit a lawyer to read an argument before them; they sat in secret session, and the first notice the claimant had of the adjudication of his claim was from the clerk; they had a notice over their door, "no admittance;" the written arguments were received by the clerk of the commissioners; the evidence was required to be in writing and the arguments in writing; I went to the clerk and he always gave me access to the evidence in the case.

3d. The next facts to which I call the attention of the committee. After the commission had terminated, these books, (of the commissioners) which were the records of the proceedings and decisions of the commissioners as recorded by their clerk (the book referred to preduced, deposited with Commissioner of Indian Affairs by the President.) On the 6th September, 1847, after the books and papers had been deposited in the Indian bureau, I made a personal application to Mr. Medill to see them; he replied that they were locked up, and he said he would not open them till he made his annual report. Upon receiving that answer, I demanded to see the decisions as a matter of right, being of counsel for some of the claimants. I had not seen the opinions of the commissioners in the latter part of their session. Previous to this application, on the same day, Mr. Medill furnished me with the abstract of the claims acted upon and decided, and which are contained in the report referred to the Commissioner of Indian Affairs by the President and filed in that office. I demanded, as a matter of right, to see the records of the decisions and opinions of the commissioners. That demand was induced by seeing on the abstract —— —— ——. Mr. Medill requested me to put down my demand in writing. On the 7th September, 1847, I reduced to writing my demand, in a letter, and sent it to Mr. Medill, which is herewith submitted and marked A. [Letter read.] I received an answer, marked B, which is also submitted.

4th. Mr. Medill's letter, dated 27th August, 1846, Senate document 113, 29th Congress, 2d session. I call the attention [of the committee] to this part of it. Here was read, on page 3, from the words "I refer you, however," &c., down to the words "applicable to their payment," at the end of the fifth paragraph.

Cross-examination.

Question by Commissioner Medill to witness Bibb. Where did Commissioners Brewster and Hardin hold their session; and did you ever see or know of the Commissioner of Indian Affairs to be in the room where they transacted their business?

Answer. They held their sessions in one of the committee rooms at the capitol. I never saw Mr. Medill in the presence of the commissioners.

By same. After your request, as aforesaid, in relation to the books and papers of the Cherokee commissioner was declined by the Commissioner of Indian Affairs, did you or not take an appeal to the Secretary of War or the President, or speak to either of them on the subject; and if so, what was their decision in relation thereto?

Answer. After receiving Mr. Medill's letter refusing my request, I repeated my request by another letter to Mr. Medill, urging reasons in support of my right, to which I received no answer. I did not apply to the Secretary of War or the President, or speak to either on the subject.

The foregoing answers to the interrogatories put by Mr. Medill, are taken down in my own language; the testimony in chief, as taken down by a member of the committee, is in his language, is an abstract of my testimony, and is substantially correct; the testimony, as drawn out by myself at request of the committee and presented to the committee, was returned to me, as having been rejected by a majority of the committee who had been consulted on the subject, as argumentative.

GEO. M. BIBB.

January 10, 1849.

WEDNESDAY, *January* 24, 1849.

Committee met: present, Hon. Chairman, and Hon. Messrs. Brady and Outlaw.

Preston Starrett, sworn. (See Journal of 24th January.)

Question by committee. Do you know any thing in the course pursued by Wm. Medill, Commissioner of Indian Affairs, in the administration of his official duties, showing corruption or affecting his integrity as a public officer? If so, state the same particularly.

Answer. I state, that after the resolution of Congress—I don't know exactly when that resolution was passed, probably in 1844, on a report made by a minority of the Cherokee committee, and sustained by the House—at the organization of the last board, he, notwithstanding that resolution and report, gave instructions to the last board of commissioners; and in that, referring the board to the opinion of the attorney general, Legaré, and omitting to refer them also to the opinion of Attorney General Butler, on the same point, and suggesting to them to report to his office before issuing any certificates on any decrees they might make, that they might be informed by the department whether or not there was money in the treasury to pay them, and that they "freely and fully advise with this department on the several matters committed to you." In one of his reports made to Congress he has stated that charges on the Cherokee fund had been improperly made, and he recommended the money to be re-appropriated by Congress, and returned to the fund, which did not cover all the improper charges on that fund which ought to have been reported. I thought that he had improperly interfered in the matter of compensation to attorneys and agents of Cherokee claimants—making invidious distinctions—not seeing the papers, and knowing that a regulation of the department required that such cases should undergo his administrative examination, but on the examination of the papers produced here by the second auditor, I find no administrative action of his marked upon them. I applied at the office of Indian Affairs, in company with Judge Bibb, after the termination of the board of commissioners, for leave to inspect their records in relation to my cases—cases in which I was agent. Mr. Medill was absent. I spoke to Mr. Cochran, who showed me the list of cases with the action marked, showing whether rejected or allowed, made to the President and referred to the office, but which was not the record I wanted to see. I wished to inspect the decrees, in order to inform my clients and myself what grounds were taken by the board on which the claims had been decided against, not having been permitted to see them before they were returned to that office. I understood Mr. Cochran to be chief clerk. We asked for the book of decrees, which he refused to let us see. I believed that it was a public record, and one which we, as authorized agents, had a right to inspect. I never made personal application to see the records again, but did make application through my attorney, Judge Bibb, to the commissioner, and I saw his written refusal. I was in the gallery of the Senate when the amendment in relation to the interest on commutation to the North Carolina Indians was under consideration in that body. The Commissioner of Indian Affairs was in the lobby, immediately behind Senator Atherton, chairman of Committee of Finance. The Commissioner appeared to be called on by that gentleman, as they frequently conversed across the bar, as I supposed for explanations about the matter. After one of those conversations, Mr. Atherton turned around and stated to the Senate that he was informed that commutation for removal and subsistence was never allowed to Cherokee Indians, except in the early stages of emigration, and that as soon as the department became informed that the agents and commissioners were allowing it to the Indians, the department ordered it to be stopped, and that those who had received it were charged with it, and that it would be taken out of the first money or allowance that would be made to them or due to them. I do not recollect the precise form of expression. I knew that commutation had been allowed to David Taylor and Gideon F. Morris, very near the close of emigration, for themselves and their families. I know that some time afterwards, perhaps in '42 or '43, allowances were made to both of these men. I have no knowledge of their ever being called on to replace the money.

Question by Colonel Medill. Were the instructions to which you refer as having been given to the last board of Cherokee commissioners in writing; if so, to what communication or communications do you allude?

Answer. The instructions I allude to were shown to me in writing by the secretary of the board of commissioners; they are dated August 27th, 1846, and are contained in Senate document, 2d session, 29th Congress, Doc. 113, page 203, letter A, in 3d vol., Senate documents, 1846 and 1847.

By same. About what time did you apply to Mr. Cochran for permission to examine the books and papers of the board of Cherokee commissioners, as above stated?

Answer. Very shortly after the adjournment of the last board of Cherokee commissioners, or the termination of their period of service.

By same. Did you apply for a general examination of the books and papers of said board, or did you merely ask to see any particular cases?

Answer. I asked for an examination of the records, with a view tosee particular cases in which I was interested.

By same. Did you present any cases or claims to the last board for adjudication; and if so, please state, as far as you recollect, what cases or claims they were?

Answer. I presented no new cases that I recollect of—all the cases I have charge of were before former boards, with all the papers.

My recollection is, that I brought up before the commissioners one of the cases of Hannah Harlin alias Perry; one of William Henson; one of Nathaniel Peak, and one of Elijah Sutton; and my impression is, that I brought up the case of the children of Caty Ward.

By same. Do you mean to be understood, in your answer to the last question, that the papers, in the cases referred to, were left by you with Commissioners Washington and Mason?

Answer. They were presented to the first board, and the papers remained in the possession of the commissioners who sat afterwards, or at the War Department, when there was no board in session, except at such times as we were indulged to examine them. I found the papers in the possession of the last board, and took it for granted that they were turned over with all the other papers of the former boards. The last board did not allow us to take a paper out of the office; the three former boards did.

By same. Will you designate or describe the claims above referred to, as being brought by you to the notice of the last board, so far as to say whether they were for reservations, pre-emptions or spoliations?

Answer. I think there were none prepared for their action but the reservation claims of the persons above named; all these persons had claims of each kind, but I think the pre-emption and spoliation cases were not prepared and brought up for the action of the board; of this I am not certain, but I think not.

By same. Did you at any time ask any action or decision by the last board on said cases, or did you not prefer a request to the said board that they would act on no case or claim in which you were interested either as attorney or otherwise?

Answer. The cases I prepared for their action I requested them to act on in the first instance. I am not prepared to say whether they acted on any of these cases before I filed a protest against their action on any of my cases; I handed a list of the cases to the secretary, and with said list a written protest against their acting on them, for reasons assigned.

By same. At the time you say you applied to Mr. Cochran, and subsequently through Judge Bibb to the Commissioner of Indian Affairs, for an inspection of the books of the Cherokee commissioners, were not you and others preparing a series of articles for newspaper publication, reviewing and attacking the action and proceedings of the late board?

The witness expressed a willingness to answer the question if the committee decided that he should answer it; but excepted to it unless that decision should be made by the committee. The committee not being full, no decision was made upon this exception. Question not insisted on.

By same. Did you hear the conversation which you say appeared to take place between Senator Atherton and the Commissioner of Indian Affairs in the Senate chamber, and do you know what the same was about, or that the latter communicated to Mr. Atherton any portion of the information which you say that gentleman afterwards gave to the Senate?

Answer I could not hear a solitary word the Commissioner of Indian Affairs said to Mr. Atherton from where I was, in the gallery; of course I do not know what he did say.

PRESTON STARRETT.

FRIDAY, *January* 26.

Committee met: present, Messrs. Fries, Brady, and Outlaw.

Mr. Charles E. Mix was re-introduced as a witness, and the following question was propounded by Commissioner Medill:

Please state what the course of the Department of War has been in relation to the allowance of commutation and subsistence to the Cherokee Indians; and in giving such course, state the orders and decisions which indicate the same?

Answer. The uniform course of the department, as far as it comes under my knowledge, (since the commencement of emigration under the Cherokee treaty of 1835-'6,) has been opposed to the payment of commutation for removal and subsistence, except to Cherokees who actually removed west of the Mississippi, or indicated a desire or intention to do so. As evidence, I refer to Senate document No. 120, 2d session 25th Congress, page 205, for a letter from the Commissioner of Indian Affairs to B. F. Curry, superintendent of Cherokee removals, of date November 12, 1836, in which he is informed that whenever advances of commutation for transportation were made, he must be careful to use proper measures to insure the accomplishment of the object in making them. I also refer to pages 733 and 739, same doc., for a letter from said superintendent of removals to the Commissioner of Indian Affairs, in which he states that in order to secure the government against imposition relative to the commutation, bonds are required; of the tenor of an enclosed blank, in the following words: "We, the undersigned, Cherokee emigrants, are jointly and severally held and firmly bound unto —— ——, President of the United States, and his successors in office, in the penal sum of —— dollars; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, &c.; to be void, nevertheless, if we transport ourselves and familes to the Cherokee nation, west of the Mississippi river, by the —— day of ——, 183–, and settle permanently there; otherwise the above obligation to remain in full force and virtue: in which case we also forfeit all our claims, as Cherokees, against the government of the United States, either for improvements or occupancy in the Cherokee nation east. Witness our hands and seals, this —— day of ——, 183–." I also refer to page 273, same document, for a letter from the Commissioner of Indian Affairs to Nathaniel Smith, superintendent of Cherokee removals, of date 20th May, 1837, in which it is stated that "the practice of paying the year's subsistence east of the Mississippi is irregular and must be abandoned." Also, to page 321, same document, for a letter from the Commissioner of Indian Affairs to said superintendent of Cherokee removals, dated

22d September, 1837, informing him that the department will permit a commutation of the year's subsistence to Cherokees who are steady and estimable men, well qualified to remove themselves, and who intend in good faith to remove within the time specified. I also refer to House report No. 391, 1st session 28th Congress, volume 2, 1843–'4, pages 45 to 54 inclusive, for the action of Commissioners Eaton and Hubley and the Secretary of War on a claim for commutation. I also refer to a decision of honorable John Bell, Secretary of War, on a claim of J. K. Rogers for commutation, and to the decision of the Second Comptroller of the Treasury, of 23d April, 1841, in same case; and to a letter from the Commissioner of Indian Affairs of 18th May, 1846, to the honorable Jos. W. Chalmers, of the Senate of the United States, in relation to the reference by him of a letter addressed to said commissioner by Mr. David Taylor, in which the following question is propounded: "And whether or not I have ever received my portion of such *money* as was to have been distributed *per capita?*" the answer to which question by the Commissioner of Indian Affairs is as follows: "Until a final settlement has been had of the disbursements made to carry into effect the treaty of 1835–'36, with the Cherokees, I am not prepared to say, considering the character of the payments which have been made to Mr. Taylor, whether he has, or has not, received his portion of such money as was to have been distributed *per capita.* It may be proper to remark that Mr. Taylor received, as commutation for removal and subsistence, $640, and that, *not having removed*, this sum will probably be charged to him as so much per capita money, under the recent opinion of the Attorney General, and the present views of this department." I also refer, for the opinion of the Attorney General referred to in the above quotation from the letter of Commissioner of Indian Affairs, to House Doc., Report No. 632, 30th Congress, 1st session, pages 6, 7, 8, 9, 10, and 11. The superintendent of Cherokee removals was required to forward to the department muster rolls of all the Cherokees who enrolled for emigration, and who were permitted to remove themselves. I would also state, from my position in the office of Indian Affairs, that I know it was the opinion of the head of the office, and his determination, on a final settlement between the United States and the Cherokees, so far as the office was concerned, to deduct from the per capita portion of such Cherokees as had not emigrated, and did not intend to emigrate, the amounts that had been advanced to them respectively for commutation of removal and subsistence. That settlement has not yet been effected. In relation to payments made to Gid. F. Morris and David Taylor, on decrees of Cherokee commissioners, or allowances by the Secretary of War, witness states (in reply to a question by Commissioner of Indian Affairs) that at the time those respective awards and allowances were made, an agent of the War Department was in the State of North Carolina, for the purpose of enrolling those Cherokees who were desirous to emigrate, and it was not known, but that the individuals referred to, and above named, would avail themselves of the opportunity afforded them to remove to the Cherokee country west; that so far as payments were made to Mr. Morris and Mr. Taylor, on decrees for pre-emptions, said payments were made under the operations of the act of June, 1844, by the Treasury Department; the War Department having declined ordering the payment of the certificates issued by Commissioners Eaton and Hubley for these respective claims; as a consequence, the office of Indian Affairs entertained no jurisdiction in relation to the payment of said claims.

Question by same. How did the cases of Hannah Harlin, alias Perry, Wm. Henson, Nathl. Peak, Elijah Sutton, and children of Caty Ward, for reservations, get before the last board of commissioners, so far as you know from the records of said commissioners, or otherwise?

Answer. By reference to vol. 1, of the "minute docket of the transactions of the board of commissioners [fourth commission] under the treaty of 29th December, 1835, with the Cherokees," at page 9, I find that on the 14th September, 1846, the case of Hannah Harlin, alias Perry, for a reservation, is entered thus: "and now, on this day, came the petitioner, by J. F. Gillespy, his attorney, and filed his petition and evidence for the value of a reservation of 640 acres of land, under the provisions of the treaty of 1817." Same volume, at page 80, I find in the case of William [Richard] Henson, for reservation, this entry: "and now, on this day, came the claimant by J. H. Eaton, his attorney, and filed the papers in this case;" same volume, at page 74, I find the case of Nathaniel Peak entered thus: "and now, on this day, came the claimant, by Eaton and Gillespy, attorneys, and filed the papers in this case;" same volume, at page 73, I find in the case of Elijah Sutton's children, for reservation, an entry, as follows: "and now, on this day, came the claimants, by Eaton and Gillespy, their attorneys, and filed the papers in this case;" same volume, at page 11, in the case of Caty Ward's children, is the following entry: "and now, on this day, came the petitioners, by W. H. Thomas, their attorney, and filed their petition and evidence for a reservation."

By same. Do the records of the last board of commissioners show that Preston Starrett, in his own name as claimant, or as attorney, presented or called up for their action any cases or case whatever; and if so, please state what cases?

Answer. On page 115, of vol. 1, before described, (same volume heretofore described by witness,) is the following entry:

"Preston Starritt
vs. } Pre-emption.
The United States.

"And now, on this day, came the claimant, by W. H. Thomas, attorney, and filed this case."

At page 67, of vol. 2 of said minute docket, I find an entry in the name of Rebecca Starritt, of a claim for an improvement, in which it is stated, "and now on this day came the claimant, and the commissioners having fully considered the papers submitted to a former board," (description of papers here appears,) "do adjudge and decree that this claim be *rejected*," &c. At page 78, of vol. 1, aforesaid, I find it stated that in the cases of the claims of Irena Ruddell, John Smith, and William (Richard) Henson, for pre-emptions, the papers in each case were filed by Eaton and Starrett, as attorneys. At page 76, same volume, in the case of Sally Kell, for a pre-emption, I find that Eaton and Starrett appear as attorneys, and "filed the papers in this case." Same volume, page 76, I find it stated that Preston Starrett, as attorney, filed the papers in the case of the claim of Elijah Sutton for an improvement and spoliation.

By same. Were the papers in the above named cases in the possession of the War Department between the termination of the 3d board, and the commencement of the 4th or last board, and by the department turned over to the said last board; and if not, where were they?

Answer. I cannot state positively whether the said papers were or were not in possession of the War Department between the termination of the 3d board and the commencement of the 4th or last board; because, when the 3d board returned to the War Department the books and papers of the commission, no examination was had with a view to identify the particular papers which had been before them; and that when the 4th board was organized, and the trunks containing the records and files received from the 3d board were turned over to said board, no particular examination was made of their contents; but from a receipt of Preston Starrett, found on file among the papers of the Cherokee commissioners, which I submit herewith, in the following words, viz:

"Recd. this 13th of July, from the office of Cherokee comms., the papers in the following cases:

"*Pre-emtion.*—John Smith, No. 73; Irena Ruddell, No. 72; Sally Kelly, No. 7; John Timson, No. 6; Charles Ward, No. 60; Wm. Henson, No. 63; Henry Smith, No. 75.

"*Reservations.*—No. 81; Elijah Sutton, No. 24; N. Peak, No. 71; Wm. alias Richd. Henson, No. 81.

"*Spolations.*—Nathl. Peak, No. 160; Hanah Perry, No. 18; Silas Perry, No. 16; Elijah Sutton, No. 99.

"PRESTON STARRITT,
"*Atto. in fact.*"

in connexion with entries on the dockets of Eaton and Hubley, which were in possession of the third board, (Washington and Mason,) and of the entries in the minute docket of the fourth board, indicating that the papers in the cases embraced in said receipt, which were presented to it, were *filed* by the attorney or attorneys, and that, in other cases covered by said receipt, it does not appear that they ever were submitted to or acted on by said board, or, from an examination I have made, to be found among the papers returned by said board, and now on deposite in the War Department, I am led to the conclusion that the papers in the cases referred to in the question I am now answering, were not in the possession of the War Department in the interval between the sittings of the third and fourth or last boards of commissioners; but, from the circumstances above stated, were in possession or custody of Mr. Starritt or his attorneys. Although the year in which the receipt of Preston Starritt above was given does not appear on the face of said receipt, yet, from entries which I identify to be in the hand writing of the secretary to the third board, Messrs. Washington and Mason, upon the docket in possession of said board, said receipt must have been given on 13th July, 1844. In answer to a question relating to decrees or decisions upon the cases above referred to, witness states that the reservation cases of Hannah Harlin or Perry, Elijah Sutton, William, alias Richard, Henson, Nathl. Peak, and the children of Caty Ward, were disposed of by the several boards as follows: The case of Hannah Harlin or Perry was presented to the first board, and rejected; to the second board, which decided that the claim was *res adjudicata*, and to the last board, and by it rejected; the case of Elijah Sutton was rejected by the first board, declined as *res adjudicata* by the second, and rejected by the fourth board; the case of Henson rejected by the first board, declined as *res adjudicata* by the second, and rejected by the fourth; the case of Nathl. Peak rejected by the first board, declined as *res adjudicata* by the second, dismissed by the third, and rejected by the fourth board; the case of Caty Ward's children rejected by the first board, declined as *res adjudicata* by the second, and rejected by the fourth board. The pre-emption claims were not entertained by the first board, and the third and fourth boards rejected all claims for pre-emptions. The claim of Rebecca Starrett for an improvement was rejected by the fourth board, in whose decree it is stated that it had been allowed by a former board; the claim of Elijah Sutton for a spoliation and improvement was rejected by the fourth board, and, in their decree, they say "this case is again presented after having been twice rejected."

CHARLES E. MIX.

SATURDAY, *January* 27, 1849.

Committee met: present, Messrs. Fries and Thompson.

Duff Green, sworn.

Question by committee. Do you know any thing in the course pursued by Mr. Medill, Commissioner of Indian Affairs, in the administration of his official duties, showing corruption, or affecting his integrity as a public officer? if so, please state the same particularly.

Answer. This question is so framed as to be difficult to answer, without the answer being liable to misconstruction. Mr. Medill, in his intercourse with me, both personally and officially, has been courteous; and I have no complaints to make, except as I am about to state. Wm. H. Thomas, of North Carolina, was the agent for the North Carolina Cherokees, and had employed me to aid him in the advocacy of their claims. Mr. Crawford, Mr. M.'s predecessor, had made decisions adverse to their claims, and used extraordinary efforts to defeat them upon an appeal to the President. After Mr. Medill's appointment, I called to see him, and had some conversation with him. From the general tone of the conversation, I had great confidence that he would interpose no improper obstacle in the adjustment of those claims. I afterwards found that in making up his report, of March 31, 1846, he had taken strong ground against their claim for removal and subsistence. In a conversation with him in relation to that report, he gave me to understand that he felt it to be his duty to sustain the previous action of the department; and I became convinced that all argument would be lost upon him, because he could not be induced by argument, or the facts of the case, to do otherwise than to sustain what had been done by the department. From that time, deeming it fruitless to make any effort to obtain justice for the claimants through the department, I advised Mr. Thomas to rely upon the President and upon Congress. I mention these facts, not as charging Mr. Medill with official or personal corruption, but as explaining my disapprobation of his administration of the department, as tending to perpetuate existing abuses. It may be that in the further examination of these claims, between the time of my first conversation with Mr. Medill on the subject, and the making of his report above referred to, he may have become satisfied that it was his duty to sustain the previous action of the department, to the extent indicated by his report. But from the manner in which he spoke of Mr. Thomas, and from his manner rather than from what he said, an impression was made upon my mind that, having committed himself by his written report, he was resolved to maintain what he had said, and I looked upon him as a partizan laboring to sustain his own erroneous opinions, rather than a fair and impartial public officer, and therefore ceased to trouble him in relation to the matter. As to the truth or falsehood of the charges upon which it seems this investigation is founded, I know nothing. I know nothing against Colonel Medill's personal or official integrity, further than as explained above, and *that* I wish to be understood as referring to the principle upon which he administered the department, and not as charging him with either personal or official corruption.

By Colonel Medill. Please state what claims or class of claims you refer to as having been employed by William H. Thomas to advocate, and in relation to which you called on Mr. Medill, as aforesaid?

Answer. I was employed by Mr. Thomas to aid him in advocating the claims of the North Carolina Cherokees generally. The conversation to which I have referred was in reference to Mr. Medill's report of March 31, 1846, and the objection therein taken to the claim for $53 33 each for removal and subsistence. That conversation was held in Mr. Medill's office, and my impression is that it was about the date of his report above referred to, and my present recollection is that I then read that report for the first time.

Question by Hon. Mr. Thompson. Do you know anything further; if so, please state it.

Answer. The effect of the report and conversation referred to upon my mind was that I conceived it to be my duty to advise Mr. Thomas not to present his other claims for adjustment to the board of Cherokee commissioners, unless he could be satisfied that there would be no improper efforts on the part of the Indian Bureau to control their decisions, which I was apprehensive would be made.

DUFF GREEN.

APPENDIX.

List of documents accompanying report of select committee, &c.

1. Letter from Hon. T. L. Clingman to chairman, Dec. 11, 1848.
2. Extract from National Intelligencer, of August 11, 1848.
3. Letter from Hon. T. L. Clingman to chairman, Dec. 13, 1848.
4. Hon. T. L. Clingman to chairman, Jan. 9, 1849.
5. Commissioners Washington and Mason to Secretary of War, October 18, 1844.
6. Commissioner of Indian Affairs to Messrs. Brewster and Hardin, August 27, 1846.
7. Commissioner Hardin to President, Feb. 15, 1847.
8. Commissioner of Indian Affairs to Commissioner Brewster, April 16, 1847.
9. Commissioner of Indian Affairs to Commissioner Hardin, April 16, 1847.
10. Commissioner Brewster to Commissioner of Indian Affairs, April 17, 1847.
11. Commissioner Hardin to Commissioner of Indian Affairs, April 19, 1847.
12. Richard Fields and others to President, May 10, 1847.
13. Commissioner of Indian Affairs to Messrs. Brewster and Hardin, June 2, 1847.
14. Commissioner Brewster to Commissioner of Indian Affairs, June 9, 1847.
15. Commissioner Hardin to Commissioner of Indian Affairs, June 17, 1847.
16. Commissioner of Indian Affairs to Messrs. Brewster and Hardin, June 23, 1847.
17. Hon. G. M. Bibb to Commissioner of Indian Affairs, September 7, 1847.
18. Commissioner of Indian Affairs to Hon. G. M. Bibb, September 7, 1847.
19. E. Harding, esq. to Commissioner of Indian Affairs, September 25, 1847, (with letter from P. Starrett enclosed.)
20. Secretary of War to chairman, January 31, 1849, (with letter to Hon. H. V. Johnson enclosed.)

No. 1.

A.

House of Representatives,
December 11, 1848.

Sir: Your favor, communicating the resolution of the select committee, has been received. To prevent any misconception, it is proper that I should call the attention of the committee to what occurred at the last session of Congress. During the debate referred to, when it was intimated by Mr. Vinton that the information on which he relied had been derived from the Commissioner of Indian Affairs, I remarked that I placed little or no reliance on statements from that quarter; that, from the information I had received, I believed that the Indian Bureau was corrupt, and that the head of it (Medill) was dishonest, and that I had no confidence in his statements. I also went on to state that, such was the distrust of those interested in the transactions of that Bureau, that I had been applied to more than once to move a resolution directing that the books of the Cherokee commissioners should be removed for safe custody to a place of greater security, for that it had been said that the records of the commissioners had been altered in some instances by the officers of the Indian Bureau. This, however, I said was represented to have occurred during the time of Mr. Medill's predecessor.

It will be seen, therefore, that I preferred no specific charge against the Bureau as at present organized, but merely expressed an opinion, generally, founded on the statements of others. I recall this matter to the recollection of the members of the committee, because I had not then nor have I now any intention of assuming the office of prosecutor. Nevertheless, having as yet no reason to change the opinions then entertained or expressed, I am pleased that the committee has been raised, and will cheerfully give such aid as I can conveniently do in the prosecution of what I regard as a praiseworthy undertaking.

I would, therefore, in the first place, invite the attention of the committee to the memorial of the Cherokee claimants, which I had the honor to submit at the last session, and which was ordered to be printed by the House. I would also suggest the propriety of examining the Hon. George M. Bibb, Preston Starrett and Johnson K. Rogers, esquires, all of whom are at this time probably in the city. There are some other sources of information, and other witnesses, to whom I hope to be able to give the committee references at an early day.

I have the honor to be, very respectfully,

T. L. CLINGMAN.

Hon. Geo. Fries, *Chairman.*

No. 2.

B.

[National Intelligencer.]

House of Representatives,
August 9, 1848.

"The House then again resolved itself into Committee of the Whole on the state of the Union, and resumed the consideration of the civil and diplomatic appropriation bill.

Mr. Bowdon advocated with much earnestness an item which the Senate had inserted for a claim of David Taylor, who had married an Indian wife, and was entitled to six hundred acres of land, officially valued at $20,489. The claim was recommended by the Secretary of the Treasury and the Attorney General and the accounting officers of the treasury.

Mr. Clingman supported the claim, and took occasion to warn the committee against any opposition which might have been made to it by Mr. Medill, the Commissioner of Indian Affairs, who he understood had endeavored to prejudice the claim, because the agents of the claimant peremptorily refused to make an allowance for his favoring the claim. Mr. C. denounced the Indian Bureau as thoroughly corrupt. He had been credibly informed that the books in that Bureau had been altered and falsified for corrupt purposes, (though this, he believed, had been done during the incumbency of Mr. Crawford, the predecessor of the present commissioner.) He had no confidence in Mr. Medill, nor would he believe any statement he should make. An application had been made to the department to have the books taken out of his office and deposited in some place where they should be safe from alterations.

Mr. Bowdon disclaimed taking any part in this matter between Mr. Clingman and the Commissioner of Indian Affairs, but went on to advocate the claim of David Taylor until the time allotted to debate expired.

The committee then proceeded to vote on the amendments of the Senate, (ninety-nine in all) of which eleven were agreed to, and forty-two, including that for the schooner Amistad, were disagreed to.

The committee then rose and reported progress, and the House, at twenty minutes before 11 o'clock at night, adjourned."

No. 3.

C.

House of Representatives, *December* 13, 1848.

Sir: I have just received your note conveying an inquiry as to whether portions of a report of my remarks made in the Intelligencer is correct or not; I am surprised that any such inquiry should have been made by the committee, because I twice stated on the floor of the House, and I presume in the presence of the members of the committee, that that part of the report was entirely erroneous; that I had there referred not to Mr. Medill, but to two other persons whose names I declined to give, when asked by Mr. Vinton in the original debate. Both of these explanations were made prior to the adoption of the resolution under which the committee has been raised, and the House must have acted with a full knowledge of what I did say on that occasion. That, as far as I made reference to the Commissioner of Indian Affairs and his Bureau, is set forth substantially, and according to my recollection verbally, as detailed in my first letter to the committee.

Very respectfully, your obedient servant,

T. L. CLINGMAN.

Hon. Geo. Fries.

No. 4.

House of Representatives, *January* 9, 1849.

Sir: In reply to the communication embodying the wish of the committee that I would give them the names of any additional witnesses known to me, I beg leave, respectfully to refer them to John F. Gillespie, of Madison, Tennessee, Hon. John H. Eaton, Gen. Duff Green, S. C. Stambaugh, esq., and David Taylor. There are one or two other persons whose residence is unknown to me, but should they come soon to the city, their names will be given to the committee.

Very respectfully,

T. L. CLINGMAN.

Hon. Geo. Fries.

No. 5.

Office of the Cherokee Commissioners,
Washington, *October* 18, 1844.

Sir: We have the honor to acknowledge the receipt of your letter of the 16th instant, transmitting a communication from Mr. Preston Starrett, addressed to the President of the United States, requesting him to delay the departure of the Cherokee commissioners for the west until they shall have finally adjudicated all the claims presented to them here.

We can conceive of no just ground of complaint on the part of Mr. Starrett, as to the action of this board. He represents himself as an attorney for claimants, yet on our docket of 500 cases his name is entered but in a single case as counsel, and that was acted on and *dismissed* on the 6th of August. If he has other interests than those of attorney in claims presented to us, we are not aware of them. It is true, Mr. Starrett has moved for the re-opening and reversion (in perhaps two or three cases) of the decisons of former boards of commissioners. We have at all times been willing and ready to receive and decide all such cases as come within our jurisdiction under the treaty, and the records of the office have been at all times open to any party desiring to inspect them. We have nearly closed our business here (with the exception of some four or five claims involving considerations of high importance, and requiring other than the ex parte evidence now before us.) These cases we have deemed it expedient to suspend for further information.

We have for the present declined the revision of the decrees of former boards, apprehending that it might render this commission interminable, when it is both the wish and policy of the Executive to have it closed with the least possible delay. Anxious on our part to comply with these views, we desire to close our business here as soon as practicable, and depart for the Cherokee nation west of the Mississippi.

We cannot close this communication without taking some notice of a portion of Mr. Starrett's letter to the President, in which he makes imputations as offensive to this board as they are unjust and malicious, as regards the head of the Indian Bureau. Mr. Crawford's conduct, during our official intercourse with him, has been of the most courteous and gentlemanly character. He has furnished us promptly, whenever requested to do so, with every information to be had in his office, nor has he on any occasion attempted to *instruct*, *control* or *advise* us as to our duties. The imputation, therefore, of his dictation to us and our submission to it, is entirely without foundation and *false*.

We respectively ask that this communication may be laid before the President.

We are, with high respect, your obedient servants.

G. WASHINGTON.
JOHN T. MASON.

To the Hon. William Wilkins.

No. 6.

War Department,
Office of Indian Affairs, August 27, 1846.

Gentlemen: Having been appointed by the President of the United States, by and with the advice and consent of the Senate, pursuant to a provision in the act making appropriations for the Indian Department, approved 27th June, 1846, as commissioners, under the 17th article of the Cherokee treaty of 1835-'36, and having accepted of said appointment, it devolves upon this department to put you in possession of such documentary information as it possesses, which pertains to the duties entrusted to you.

The various records and accompanying papers of the three boards which have preceded you are on deposite in this office, and will be handed over to you on your signifying a wish to that effect. From them you will be able to inform yourselves of the extent of the action of your predecessors on the various claims submitted to them, and which, if any, of those submitted have not been finally disposed of.

The first board continued in session from December, 1836, to 5th March, 1839. The second was in existence from November, 1842, to January, 1844; and the third was commissioned in June, 1844, and expired by limitation of law on 17th June, 1845.

The accompanying copy of a communication from the department to Messrs. Carroll and Lumpkin, 1836, the copy of a communication from this office to the second board, of 28th September, 1842, to be found in House report, No. 391, 28th Congress, 1st session, pages 17 to 24; and the enclosed copy of a letter from my predecessor, of 20th June, 1844, to the third commissioner, embody the views of the department, at the respective dates, respecting the various classes of claims arising under the Cherokee treaty of 1835–'36. Those views may be modified in some degree by the provisions of the treaty recently made between the United States and the Cherokees; but as the law making provision for the organization of the present commission provides for the reference of any case to the Attorney General in which you may differ in opinion, it is not regarded by the department as necessary to give you special instructions in the premises. I refer you, however, to the House document, above named, at page 58, for an opinion of Attorney General Legaré, respecting the jurisdiction of the commission, and the duties of the executive offices in regard to the decisions of said board, and suggest that you fully and freely advise with this department on the several matters committed to you.

In view of the modification of certain parts of the treaty of 1835–'36, by that just ratified, and of the change consequent thereupon, it is deemed advisable by this deparment that no certificates be issued by your commisson on the decrees you may make, until you shall be informed by it that there is money in the treasury applicable to their payment.

The compensation allowed the commissioners of the two preceding boards was $3,000 per annum each, and that of the secretaries $1,500. But the act of 1846, which provides for the appointment and organization of the present board, appropriates only $7,000 for the expenses thereof for one year, including as well the compensation of the commissioners and secretary as the contingent outlays which must necessarily attend their sittings. The department having no other means at its disposal which are applicable to this object, your compensation is limited to such sum as the said $7,000 will afford, after deducting therefrom the necessary contingent expenses of the board, and a rate of compensation to the secretary, which shall be equal to one-half of that received by each of the commissioners; provided, however, that the same shall not exceed the rate of $3,000 per annum each.

W. D. Miller, esq., of Texas, at present in this city, has been appointed the secretary of your board, and will be directed to report to you for duty.

Until otherwise directed by the President of the United States, it is expected that you will sit in this city, and as the duration of your appointment has been limited, it is necessary that you should immediately organize and enter upon the discharge of your duties.

Very respectfully, your obedient servant,

W. MEDILL.

B. H. Brewster, Esq.,
Edw. Hardin, Esq.,
Commissioners.

No. 7.

[Confidential.] City of Washington,
Cherokee Commission Office, February 15, 1847.

Sir: The Cherokee commission commenced its sittings soon after the 20th day of August last; but having decided several enormous claims adversely to the claimants, they at once ceased to file them. We then advertised in Washington, North Carolina, and in the Cherokee country, that we would not receive claims, unless upon cause shown, after the 25th day of December last, and up to that time only about thirty-five claims had been filed; all of which we had decided, except upon such as written applications had been made, requesting that they should not be acted upon.

Now there are more than eight hundred claims upon the docket, and we are informed upon good authority that above two thousand are behind, involving, in the whole, the sum of at least four millions of dollars, which will not be filed, under the belief that the term of the commission will expire before their claims can be reached. Those kept back are mostly from the west.

As far as we have gone, we have allowed only about 5 per cent. of the claims preferred; and I am afraid that we have passed, even at that rate, more than we ought to have done. Judge, then, how much nerve and determination it requires to withstand the clamors of the claimants, and their attorneys, together with that of all those to whom they are indebted in Washington for board, lodging, and washing; and, including brokers, shoemakers, tailors, &c., &c., &c., amounting to a little army. And we are blamed for not making decisions to enable them to pay their debts, by many, when, in fact, they are living by the delay, and have filed requests that their claims should not be decided upon.

The Congress have refused to extend the time of the commission, and have not even appropriated a sum sufficient to carry it through the year; so that these unsettled claims will continue to hang upon the government, to its great annoyance, perhaps, for many years to come. We do not wish to spin out the time of the commission. Mr. Brewster is willing to quit it at any moment, and the secretary and myself are, by no means, wedded to it. But we feel that we have a great trust to discharge, and wish to perform it with honor to ourselves and usefulness to the public.

I may be permitted to assert that the government never had a more faithful or industrious commission; one more searching in its inquiries, less operated upon by extraneous influences, or more determined and inflexible in its course. I speak egotistically, but authoritatively and boldly, because I defy contradiction and invite scrutiny.

The board began by recording its decisions at length upon every case, to serve as a perpetual memorial that would settle this troublesome business forever. But we will have to leave it incomplete, or finished in such a manner, for want of time, as will be unsatisfactory not only to the commission, but to all concerned.

The records are beautifully kept by the secretary, who is admirably fitted to the purpose, executing every part of his duty with unrivalled ability; and really we would feel proud to be enabled to end this complex and perplexed affair, in such a manner as would justify us in all of our conduct. But I fear that we shall have to leave it unperfected, so that the claimants will yet be crying out for justice, which they will say has been withheld from them.

I have thought it not improper that I should make these disclosures to your excellency, hoping that it will be received in the spirit in which it is made.

I have the honor to remain, most respectfully, your obedient servant,

EDWARD HARDIN.

To his excellency James K. Polk,
President of the United States, city of Washington, D. C.

[Referred by President.]

No. 8.

War Department,
Office Indian Affairs, April 16, 1847.

Sir: It is very important that the claims before the board, of which you are a member, should be disposed of, so that the department may proceed with the settlement required to be made with the Cherokees by the treaty of August, 1846, and be enabled, finally, to adjust all questions of a pecuniary nature now pending between these Indians and the United States. The interests of the government, and the peace and harmony of these people, both require a speedy and final settlement of all such questions.

The commission having been revived "for one year and no longer," it has been decided that it must terminate at the end of the year for which yourself and colleague were commissioned, notwithstanding the additional appropriation made at the late session of Congress. The year for which you were commissioned expires on the 24th day of July next, when the department will proceed with, the settlement above referred to. The claims not passed upon by the board before that period will be either lost, or form the grounds then, or at some future time, of an application for still another commission. Under these circumstances, in view of all the interests involved, of the well founded apprehensions of the claimants and of the complaints they have made to the President, I am directed to say that it is necessary that the board be constantly in session during the remainder of its term, if the business before it, or which may yet be brought before it, be not sooner disposed of. I am also requested to say that should it not be convenient for you to attend, it is expected that you will give notice of that fact, in order that such a course may be adopted as the exigency of the case, and the interests of the claimants and the government, may seem to require.

Very respectfully, your obedient servant,

W. MEDILL.

B. H. Brewster, Esq.,
Philadelphia, Pa.

No. 9.

War Department,
Office Indian Affairs, April 16, 1847.

Sir: In order that you may be advised of the views of this department in relation to the period when the commission of which you are a member will expire, and to the importance of the business before the board being disposed of prior thereto, I have the honor to transmit for your information a copy of a letter this day addressed to your colleague at Philadelphia on those subjects.

Very respectfully, your ob't servant,

W. MEDILL.

Gen. Edward Hardin,
Commissioner, &c., Washington, D. C.

No. 10.

No. 1 Sansom street, Philadelphia.

To Hon. Mr. Medill.

Sir: I have the honor to acknowledge the receipt of your favor of yesterday.

My intention was, before I received your letter, to be in Washington on Tuesday morning, to dispose of such cases as are now prepared for action. On that day I will be there.

When I left Washington there were no cases on the docket which were ready for examination that had not been finally disposed of.

It has been my determination and constant desire to bring the duties of the commission to a conclusion, and I have thus far made many efforts to induce claimants to prepare their cases for examination without success. If their cases were acted on, and dismissed for want of preparation, as we have frequently done, we were complained of as being too hasty, and when we suspended cases, after written requests, we were accused of neglect and delay. My experience is, that nothing will give satisfaction to the claimants but a liberal allowance of all the claims that were presented, and that I am not prepared to do, unless they are within the terms of the treaty, and supported by full and conclusive evidence.

If the cases are not prepared, and the parties still procrastinate, I will feel it my duty to enforce the order long since issued, and take up all cases on the docket in their place, and dispose of them finally, without regard to any requests for continuance.

There has not been a time since the organization of the commission that we have not been in advance of the prepared business before us.

I have the honor, sir, &c.,

APRIL 17, 1847. BENJAMIN H. BREWSTER.

No. 11.

CITY OF WASHINGTON,
Cherokee Commissioner Office, April 19,1847.

SIR: I have the honor to acknowledge the receipt of your communication of the 16th instant; and also the copy of a letter of the same date addressed to my colleague at Philadelphia, "in relation to the period when the commission of which I am a member will expire, and to the importance of the business before the board being disposed of prior thereto."

I owe it to myself to state to you, that my attendance at the office of the commission has been constant and unremitted from the commencement of the sessions of the board to the present time, and that no exertion on my part shall be wanting to fulfil the expectations of the government, or the claimants, in bringing this perplexed business to a final and speedy close.

Very respectfully, your ob't servant,
EDWARD HARDEN,
Cherokee Commissioner.

To Hon. W. MEDILL,
Commissioner of Indian Affairs, City of Washington, D. C.

No. 12.

WASHINGTON, *May* 10, 1847.

The undersigned, Cherokees, and who were citizens of the Cherokee nation when the treaty between the United States and that nation of 1835–'6 was concluded, respectfully address your excellency upon a subject deeply interesting to those concerned in its faithful execution.

It is known to you that one of the most important considerations which induced any portion of the Cherokees to sell their country, was the provision made by the treaty for the "adjudication and payment" of various claims held by many of the people against the United States, for losses sustained by depredations upon their property, and otherwise. When this consideration for the sale of their country was agreed upon, the important question presented itself, "How shall these claims be adjudicated and paid?" The parties, after full discussion, agreed upon the tribunal, which was inserted in the treaty, and afterwards ratified by the Senate, as follows, viz:

"ART. 17. All claims arising under and provided for in the several articles of this treaty, shall be examined and adjudicated by such commissioners as shall be appointed by the President of the United States, by and with the advice and consent of the Senate of the United States, for that purpose, and their decision shall be *final;* and on their certificate of the amount due, the several claimants shall be paid by the United States."

It is deemed unnecessary to trouble you with an exposition of the proceedings of the tribunal, created by the above article, since first organized, in November, 1836. The business of the Cherokee party is now with the commissioners appointed by your excellency. The claimants and those delegated to represent their interests here, have appealed to these commissioners from the time of the organization of the board, in August last, to rescind certain arbitrary and oppressive rules adopted for the government of its proceedings. From time to time they were induced to believe that their complaints would be listened to and their grievances redressed. All hope, however, has now departed; and, as much as they regret the necessity, they deem it to be a solemn duty they owe themselves and to their absent Cherokee brethren, to protest against what they conceive to be a *violation of a sacred pledge made by treaty stipulations.*

The undersigned now, therefore, earnestly appeal to your excellency for the prompt exercise of your constitutional duty, and pray that you will cause the Cherokee treaty of 1835-'6 to be *faithfully executed*, without further *unnecessary and vexatious delay.* They trust that they will not appeal to *you* in vain. A board of commissioners is now in existence, appointed to perform this duty. This board has been commissioned for one year from the 24th of July, 1846; and by a law of the last session of Congress, it is left discretionary with the President to continue or discontinue the commission. The Cherokee claimants are the deeply interested party in the proper application of this time. If it is improperly consumed or wasted, they alone are the sufferers.

When the present commissioners organized, they published a notice in the public papers that they would hold their session in the city of Washington. That the claimants or their attornies must prepare their "testimony, declarations, statements and arguments in writing, and file them with the secretary;" that when they were once filed, they could not, "on any pretext, thereafter be withdrawn;" and that on no account would the claimants or their counsel "*be permitted to speak to the commissioners or to the secretary on the subject of their claims!*" The undersigned, who have for a lifetime been acquainted, through personal intercourse, with Indian character, and the mode of proceedings adopted universally by commissioners appointed to transact business with them, could not but view this singular announcement with surprise and regret. The claimants yet remaining east of the Mississippi river generally reside in North Carolina, Georgia and Tennessee. Those who removed west, occupy a country distant from Washington upwards of *two thousand miles!* The western claimants were induced to believe that the new commissioners would be sent west to complete the examination of claims and take testimony, (according to the rule adopted by their immediate predecessors,) after those were adjudicated here wherein the testimony had been already completed. But the first information they received of the organization of the new commission was, that it would be located in Washington, and the *Indian* claimants must present their "claims, statements and arguments" in *writing*, prepared for adjudication. By this rule, every *Indian who could not write, and write an argument, too*, fit to be submitted to a technical court, *sitting two thousand miles distant*, must relinquish his claims altogether or employ counsel!!

The representatives of claimants here, however, were prepared to submit numerous claims already prepared, east and west, by virtue of full authority given by claimants; but they desired to have an opportunity of presenting these claims, and reading their statements and arguments to the board, IN SESSION, *sitting in open council*, as was done before all the other commissioners appointed under the same treaty, and in accordance with the rules adopted by every judicial tribunal in the civilized world. If latitude should be given in any court to suitors or their counsel to explain their written arguments and statements or the nature and character of the testimony adduced, and permission granted to amend or supply deficiency in proof, it surely ought to be extended to *Indian claimants*, when the adverse party is a *great and powerful nation*, in a suit to obtain a compliance with *treaty stipulations*, by the weak from the stronger party; and more especially should this be done, when the powerful party in the reference *have selected the referees to constitute the tribunal to try the issue!!*

The Cherokees complain that the present commissioners refuse to permit the claimants, or their counsel, to present their claims in the manner above indicated. Since the organization of the board, in July last, these commissioners have not held *one public session for the examination of claims.* The claims filed with the secretary, according to the *requirements of the commissioners*, have heretofore been sent to the PRIVATE *room of one of them*, and the ARGUMENTS THERE *written out by this commissioner, rejecting these claims, without the other commissioner having read the testimony,* *statements and arguments in favor of them*, have been spread upon the record as *the decree of the board.* Decrees, sir, from which, by the terms of the treaty, *there can be no appeal.* Thus have the claimants and their counsel been deprived of all opportunity to explain any part of their evidence or argument, which might not be intelligible to the board, or of correcting error or defect in either. *And, neither the decrees when rendered, nor any of the proceedings of the board upon the claims, are read to the claimants or their counsel*, as has always been done by former commissioners ! !

The undersigned have remonstrated against these unusual and unjust proceedings of the commissioners; but remonstrance has been in vain. One of the commissioners is, at least, one half of his time, absent from the city on his private business. During this time the other commissioner performs no official duty. The time thus consumed is lost to the Cherokee claimants, and the delay it may cause in the final settlement of their claims can be called little else than an absolute *denial of justice.* In this condition, and after full consultation among themselves, with those they represent, and with the counsel for others, the undersigned have formed the determination to *insist upon the rights secured to the Cherokees by the treaty being now fully recognized and respected by the government of the United States.* They solemnly protest against any further waste of time and money, intended by the Congress of the United States, to effect a prompt and liberal settlement with the Cherokee Indians. That the commissioners must hold their sessions PUBLICLY, and grant the same facilities to claimants and their counsel as have been granted by every similar tribunal known to exist in this country. The undersigned, therefore, submit the following rules, which they ask your excellency to cause to be adopted, as being indispensable to the faithful execution of the treaty of 1835–'6.

1. That the commissioners, so long as they may remain in Washington, shall hold their sessions daily, in a suitable apartment for the accommodation of all the parties, from 10 o'clock, a. m., until 3 oclock, p. m.; or during such time each day, as the other public offices are kept open.

2. That the claimants and their counsel shall have the right to appear before the board thus sitting in open council—*submit* and *read their statements, testimony and arguments*, in each case, and be permitted to make such explanations, and correct or supply such defects and omissions in statements, proofs or arguments, as may be required or deemed necessary in the course of reading such papers.

The rule denying this right to the claimants and their counsel, has, heretofore, retarded the progress of business, and injuriously affected their rights and interests. They insist, therefore, that it be rescinded; and that they shall have the privilege, as granted by all former commissioners, of reading and explaining, orally, the testimony and arguments upon which they rely to sustain their claims.

It must be obvious to your excellency that, in this way, strict *justice* to all parties could be more easily arrived at, and meted out; and any attempt at imposition be more readily detected and exposed, than by the *private* and *clandestine* mode adopted by the commissioners of causing the claims to be filed with the secretary, and of then examining in *secret*—first by one of the commissioners, who writes out *his opinions*, and afterwards reads them to the other commissioner, who, upon them, *and them alone*, forms *his opinion* of the claims, and unites with his colleague in rendering them as DECREES, which are to be *final*. This last act is performed in the room occupied by the commissioners as a public office; but on the door a notice is posted, containing, in large letters, this *ominous warning*: "*positively no admittance.*" Thus every opportunity to explain any ambiguity, or defect in the papers submitted, is cut off by the commissioners; and the undersigned do solemnly declare their belief, after the perusal of the decrees made in several cases, that (according to the ground assumed by the commissioners, and their reasoning upon it) their decision must have been made differently, had an opportunity been afforded to supply the most trifling omission or defect in the evidence, or make explanation that would not have required five minutes time. But this privilege being denied, these claims were rejected by a technical application of rules of evidence.

Your excellency will readily perceive, that by the reading of the testimony and the arguments by the counsel, in open court, the board will not only be able to elicit important information in reference to *numerous* and *important questions arising out of the various treaties*, which will enable it to arrive at more just conclusions, prevent impositions which may be attempted by fictitious claimants, (especially as heirs of reservees,) and be satisfactory to the claimants; but it will be a great *saving of time*, provided it IS INTENDED that the commissioners are to *read* and *consider* the testimony and arguments presented for their consideration, and they do so separately and at *different times!*

The commissioners, as your excellency is aware, were appointed for one year. More than three-fourths of that time has already expired, and the appropriation is nearly exhausted, yet but few benefits have been derived by claimants under the treaty since their appointment. The claimants and their counsel would not risk the sacrifice of their interests before a *tribunal sitting and deciding in* SECRET!!—*refusing to give or receive information respecting the duties confided to them by their commission!* In this way the prosecution of these claims has been greatly retarded, and time, which is precious to the claimants, unnecessarily and wantonly wasted. The claimants under the treaty have instructed their agents and counsel *to submit no longer to this abuse of a sacred duty confided by treaty stipulations; and they now* SOLEMNLY PROTEST *against all further adjudication of claims arising under the Cherokee treaty of* 1835-'6, *in which they are interested, until the board of commissioners, created by the* 17*th article of that treaty, is so constructed as to* *conform to the rules above laid down; and they also insist, that whenever a decree is made in favor of a claim, that a certificate immediately be issued for the amount awarded, and that it be paid according to law and treaty stipulations!*

In every view of the case, they cannot but look upon the present proceedings of the board of commissioners, created to fulfil a long neglected treaty obligation, as a *solemn mockery of that sacred duty!* and they have to look to the President now to apply the remedy, and cause the treaty to be promptly and faithfully executed.

The undersigned entertain also serious objections to the frequent declarations made by both of the commissioners, in reference to the *character* of the *claims*, which they have been appointed and sworn to examine and adjudicate (as independent and impartial judges) upon principles of law and equity. They have pronounced these claims *fraudulent* in advance of their examination; and those connected with their prosecution have been also denounced as speculators, attempting to practice gross frauds upon the government. The undersigned are constrained to say that this conduct does not comport with the dignity of a judicial tribunal, established under the solemn sanction of a treaty, expressly for the purpose of *adjudicating upon the claims thus denounced*, (arising under that treaty,) *held by feeble*, *powerless Indian claimants* against *the government of the United States*.

In conclusion, the undersigned disclaim any intention to assail either the *capacity* or *integrity* of Messrs. Brewster and Hardin, as recognized in *their commissions*, signed by your excellency. They may possess all the requisites, as accomplished lawyers, to adorn the bench of your highest courts; but if they do possess the *qualifications* to constitute a tribunal to transact business with *Indians*, or settle complicated and conflicting claims arising under an Indian treaty, they have thus far, as we conceive, erred in their application. It is to their official proceedings we object. They refuse, by the course they have adopted, to receive such information as would enable them to form a correct judgment, no matter how brilliant might be their abilities. We object also to the waste of at least half the time allotted to the adjudication of claims as limited by law, in consequence of the absence of one of the commissioners and the inactivity of the other. This absence and consequent waste of time will admit of no excuse, although one of the commissioners alleges that he accepted his appointment on the express condition entered into with the President, that he might absent himself whenever his *private business required his attention elsewhere*.

The undersigned, (being Cherokee citizens holding property in the Cherokee nation at the date of the treaty of 1835–'6) now in the city of Washington, were heretofore appointed at a meeting of all the claimants and their counsel and representatives, as a delegation to memorialize the President of the United States in relation to the grievances above feebly portrayed. This measure *is* and *was* approved by every claimant, and every attorney and representative of claimants, who does not *prefer* having his claims submitted to the decision of a *secret tribunal.* A memorial was then (April 6, 1847) prepared and read at a *general meeting of all the counsel representing the claimants, and unanimously concurred in.*

The memorial which gave a full history of the origin of the claims arising under and provided for by the treaty of 1835–'6—of the great importance, especially of the *reservations* granted by the treaty of 1817, in promoting the policy of the government at that period, by the tendency of the measure to dissolve the nation east and discharge heavy obligations to Georgia and the other States, was not presented to your excellency in consequence of the most solemn assurances made by one of the commissioners to several of the claimants and attornies, that there *should be a radical change made in the proceedings of the board as soon as his colleague returned from Philadelphia.* Desirous to forbear making any complaint, whilst the slighest hope of redress, without doing so, remained, the undersigned agreed to withhold that paper. The absent commissioner, however, after an absence of *four weeks and two days,* returned to the city. He has been here (with the exception of the absence of three or four days) upwards of two weeks, *and the pledge of his colleague has not been redeemed.* The cord of oppression, instead of being slackened, is drawn, if possible, still tighter. The undersigned, therefore, have been directed by the claimants and representatives of claimants under the Cherokee treaty, to prepare and present this appeal to you.

They respectfully and earnestly request that you will give it a careful perusal and early consideration. Upwards of eleven years have lapsed since the Cherokee Indians ceded to the United States all their lands east of the Mississippi river, and the stipulations of the treaty, providing for the payment of private claims, (as the most important part of the consideration given for the lands) have not yet been carried into effect by the United States. It now remains for your excellency to direct this duty to be performed in conformity with the intention of the contracting parties, as expressed by the letter and the spirit of the compact. But this cannot be done by the present commissioners, who are absent and idle more than half their time—and then, when the absentee is recalled, as he has been lately, (officially,) his temper, towards those who complained of his absence, is exhibited in taking up the claims by scores at a time, and deciding *from fifteen to twenty in a single night.* Impartial and strict justice cannot be meted out by such procedure, and hence this appeal to the President, whose duty it is to "cause the laws to be faithfully executed." It will also be remembered by your excellency, that the claimants and their counsel now in Washington are not the only complainants. A delegation, appointed by the chief and council of the Cherokee nation, came to this city at the early part of last sesson, for the purpose of presenting a large number of claims prepared for submission under the authorities of the nation. This delegation, (composed of Messrs. Vann, McNair and Wm. P. Ross,) protested against the action of the present commissioners and have returned to the nation, taking with them the claims, absolutely refusing to submit them for adjudication.

Very respectfully, we are, your friends,

RICHARD FIELDS,
W. L. HOLT,
J. M. BRYAN,
Cherokees of the nation west.
J. K. RODGERS,
PRESTON STARRETT,
JNO. A. POWELL,
Cherokee citizens of the nation east in 1835–'6.

To his Excellency the PRESIDENT
of the United States.

No. 13.

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,
June 2, 1847.

GENTLEMEN: I enclose you a copy of a communication which was recently addressed to the President, and by him referred to this Department, for your examination and such answer as you may see proper to make.

I have the honor to be, very respectfully, your obedient servant,
W. MEDILL.

Messrs. HARDIN and BREWSTER,
Commissioners under the Cherokee treaty.

No. 14.

WASHINGTON CITY, *June* 9, 1847.

SIR: I have the honor to acknowledge the receipt of your note dated 2d June, enclosing "a copy of a communication recently addressed to the President, and by him referred to this (your) Department for your (our) examination, and such answer as you (we) may see proper to make."

Since we are not *required* by the President to reply to the communication you enclosed, for myself, I will not volunteer to answer a paper containing such silly accusations and misrepresentations.

As you have been made the *channel* of communication between the President and the commission, as such, I will inform you that I do not doubt but that it will be able to complete its duties by the expiration of its official year and term; but if my conduct as an officer has been the cause of the slightest annoyance to the President, I hope that he will supply my place with some one with whom he will be better satisfied. If, on the other hand, he has reason to think that I have been guilty of official misconduct, I desire that he shall cause an investigation to be made that the truth may be known.

Having accepted the place, I have felt that my task should be completed before I could voluntarily withdraw with credit, or I should have long since relinquished the commission; as it is, I do not desire to hold it for a day beyond its present term, and not for an hour of that if my official conduct is in any way exceptionable to the President, from whom I received the commission, and to whom only I am officially responsible.

I have the honor, sir, to be, with respect, &c.,

BENJ. H. BREWSTER,
Commissioner under the Cherokee treaty of 1835-'36.

To Wm. Medill, Esq.,
Commissioner of Indian Affairs.

No. 15.

Cherokee Commissioner Office, 17*th June*, 1847.

Sir: In answer to the complaint of the persons calling themselves Cherokee claimants, dated on the 10th ultimo, and transmitted to the board by you with letter of the 2d instant, addressed to the President, and referred by him to the War Department, against the action and conduct of the Cherokee commissioners, I have for myself only to say, that an unimpeached character of more than thirty years standing in various important public stations, recognized and approbated by all Georgia, and the record of the adjudications of the board, is all that I feel called upon to urge in my defence.

The true ground of complaint is not alleged by the complainants; it is, that the commission has stood up and decided against a mass of claims, blotched and blistered with fraud, and which, if admitted, would have taken from the public treasury millions of dollars, for the benefit of persons wholly unentitled to compensation of any kind or amount.

I have the honor to remain, very respectfully,
Your obedient servant,
EDWARD HARDEN,
Cherokee Commissioner.

To W. Medill, Esq.,
Com'r of Indian Affairs, City of Washington, D. C.

No. 16.

WAR DEPARTMENT,
Office Indian Affairs, June 23, 1847.

GENTLEMEN: The Secretary of War has referred to this office your communication of the 21st instant, enquiring whether a clerk can be furnished to aid your secretary in recording, in order to close up the records of the commission by the time it expires on the 24th of the next month.

As one of the gentlemen of this office is now absent on public business, and two others on leave, one of its clerks could not well be spared; but as it is important that the whole of the business of the commission should be arranged and disposed of by the time it terminates, you are authorized to employ such clerical assistance as you may find necessary for the purpose, an account for which, at $3 per day, will be allowed and paid, as a part of the contingent expenses of the board. Should you, however, not be able to procure a suitable assistant, this office will detail one of its clerks, though the business in his charge should, in the mean time, have to lie over.

Very respectfully, your obedient servant,
W. MEDILL.

EDWARD HARDEN & BENJ. H. BREWSTER, Esqs ,
Commissioners, &c., Washington City.

No. 17.

[A.—*See testimony of G. M. Bibb.*]

WASHINGTON, *Sept.* 7, 1847.

On yesterday I made application, as counsel for various of the Cherokees, whose claims have been adjudicated by the Board of Commissioners, under the 17th article of the treaty of New Echota, of 1835–'6, for an inspection of the records of that court established by the treaty. That application was not granted, on the ground that the books, papers, and records, were in trunks, unopened, and that various applications of like kind had been refused. I then asked, as of right, to inspect those public records, and was told to put the application in writing. I now make the application, as matter of right, to inspect those decisions, for the purpose of ascertaining the nature, and extent, and principles of the adjudications, and the manner of obtaining redress for the individuals whose claims have been rejected.

Those records are public property, as well of the United States as of the Cherokees; they concern private interests of the Cherokees, as well as the honor and good faith of the United States, and cannot be rightfully hidden under a bushel.

Yours, &c., GEO. M. BIBB.

To the Commissioners of Indian Affairs.

No. 18.

[B.—*See testimony of G. M. Bibb.*]

War Department,
Office of Indian Affairs, September —, 1847.

Sir: I have had the honor to receive your letter of the 7th instant, in which you make "application as a matter of right, to inspect the records of the decisions" of the Cherokee commissioners, "for the purpose of ascertaining the nature, extent, and principles of the adjudications, and the manner of obtaining redress for the individuals whose claims have been *rejected*," and pressing business before the office has, I regret to say, until this time delayed my answer.

The books and papers in question, filling some five large trunks, were deposited in this office by Messrs. Harden and Brewster, the late commissioners, appointed under the 17th article of the treaty of 1835–'6, and are placed in one of the rooms appropriated for matters not immediately connected with the current business of the bureau. Could I spare the time from the important and necessary duties that are now pressing upon me and occupy my almost undivided attention, it would give me great pleasure to accompany and aid you in the examination you propose, if the interests of your clients could thereby, in any way, be promoted, or the slightest favor or kindness be conferred upon yourself. But as you base the demand on what you conceive to be your *right*, and which, though apparently limited to a mere inspection of the records, necessarily involves the duty, on my part, of either surrendering the possession or making out and furnishing copies of these numerous and voluminous documents to every one who may desire the same, the case is very materially changed, and I must, therefore, as at present advised, most repectfully decline your request.

The claimants (and it is in their right you apply) have always taken the ground that the board of Cherokee commissioners was a separate and distinct tribunal, and that their papers, as a consequence, formed no part of the records of this office, and that they are placed here, as on other occasions, merely for convenience and safe keeping. And whatever may have been the practice or usage of the department during the first years of the sessions of the several Cherokee boards, the principles now established, and which have been in force since the passage of the joint resolution of June 15, 1844, would seem to relieve this office from any such duty as is now sought to be imposed on it.

A brief examination of the relations existing between these boards and the department, and of the action of Congress and of this office in reference to them, will exhibit fully the propriety of the course now taken. Indeed, it is doubtful whether this office can, without a violation of trust, either furnish copies of, or surrender, the records and papers of the commissioners for inspection, other than of such of them as have been properly transferred to *the files* of this office, by reference of the President, or by being directly communicated to the bureau by the commissioners themselves. To part with the possession of these documents, except on the order of the President, or of Congress, would, in my judgment, be manifestly wrong, as I shall proceed to show; and to make copies of them, would, even if proper in itself, require an additional clerical force in the office.

At no time since the appointment of the first board under the treaty, so far as the records of this office indicate, has this department assumed any control or direction of the adjudications of that tribunal; but from the first, the board has been regarded as possessed of independent and exclusive authority to the extent of the jurisdiction created and defined by the treaty itself. It is true that *suggestions* from the department touching the mode of their proceedings, and the views of this office on the various questions arising before the board, have, upon the request of the commissioners themselves, been freely communicated from time to time, but almost invariably with special reference to the exclusive authority and power of the board over the subjects of adjudication. And the only question ever entertained here, was one involving alone the extent of their jurisdiction; the department, for a time, treating this as a matter for its determination, and claiming the right, under the general powers conferred on it by law, to examine the decisions of the commissioners with reference to this question alone. Subsequently, however, even this limited action of the department was materially affected, if the revision of the cases was not altogether abandoned, under the opinion of the Attorney General of August 27, 1838, to be found in the document containing the opinions of the Attorneys General at large, in which it was held that the board of Cherokee commissioners constituted a tribunal independent of the War Department, whose decisions were not matters that concerned its official powers and duties. But whatever doubt remained in relation to the precise character and extent of the powers of the Cherokee board, the action of Congress upon the general subject, at its session of 1843–'4, fixed the nature of the relations of this office with said board, and established the fact—upon which the action of the bureau has since been predicated—that with the proceedings of said board, its decrees, or even with the question of its jurisdiction, this department had nothing whatever to do. By reference to Executive Document No. 93, 3d session 27th Congress, may be seen the memorial of the Cherokee claimants, in which they complain of the alleged interference of the department in the affairs and action of the board, and insist that "the powers conferred on the board [by the treaty] are *supreme*, and *that from their decision there can be no appeal* to another tribunal; that no other officer or tribunal constituted by this government can direct their action in the adjudication of any claim arising under the treaty; and that, upon their certificate of the amount found due each claimant, they shall be paid by the United States;" and the deliberations of Congress, founded upon this and similar memorials, resulted in the adoption of the joint resolution before referred to, which, passing not only wholly by the Office of Indian Affairs, but the Department of War itself, directed the *Secretary* of the *Treasury* to pay the certificates of the Cherokee commissioners!

In the reports of the majority and minority of the Committee of Indian Affairs of the House of Representatives, 28th Congress, 1st session, (No. 391,) this whole subject was fully brought to the particular notice of Congress, and that body acted in the premises with a thorough knowledge of the previous course of this department with reference to the adjudications of the Cherokee board; and the enactment which followed these deliberations was of a character (having been adopted upon the recommendation of the *minority* of the committee, and in opposition to the suggestions of the *majority*) to put at rest all uncertainty as to the exclusive and final authority of the board over all matters brought before it under the treaty; and, since the passage of said resolution, this office has declined invariably even to exercise its ordinary administrative action upon the awards of the board. In the report of the majority of the committee, of March 24, 1844, it is stated that "the object of the resolution referred to, [the same in substance afterwards adopted] then, is to compel the Executive Department to pay the certificates issued by the board of commissioners upon the ground that their decision is *final*, and not subject to any revision by the Department; and the committee, after citing instances of allowance in which, in its opinion, the commissioners transcended their jurisdiction, recommend the *rejection* of said resolution—insisting that the interests of the United States, as well as of those of the claimants whose cases had not been acted on, alike justified and demanded a careful and scrutinizing examination of the claims decided upon by the commissioners, before payment of their awards. From these views of the majority of the committee, (for the document at length see vol. 2, reports 1843–'4, No. 391,) the minority, consisting of the Hon. Messrs. Foot, Bidlack, Hunt and Vanmetre, *dissented*; and in a separate report, in which—after controverting the positions and arguments of the majority, and insisting that the action of the commissioners was final; that they possessed "*supreme* power over the adjudication of all claims arising under the treaty;" that the board was a tribunal independent of all connexion with or control by the War Department, or any other distinctly constituted authority—the committee use the following emphatic language:

"More than six years have elapsed since the Cherokee party to the treaty complied with its part of the compact, by a relinquishment of every acre of the ceded lands; and the other party (the United States) is imperiously called upon to fulfil its part of it. The claims arising under the several articles of the treaty, yet remaining unsettled, must be adjudicated and paid; and, in the language of President Van Buren, these claims 'can only be adjudicated by a board of commissioners appointed under the 17th article of the Cherokee treaty.' There must be a *final* decision somewhere; and all that is asked is, that it be left with the tribunal to which the trust was confided by the treaty. If this is not done, then every claim *rejected* by the board at its former and late sessions can be appealed to the Executive or Congress, or to the councils of the Cherokee nation, and the execution of the treaty will be interminable. The undersigned must also observe, that, although the power conferred upon a board of commissioners by the treaty is a high and imposing one, yet, it is to be presumed, such commissioners, appointed by the President and Senate of the United States—men selected for their '*fidelity*, *integrity* and *ability*,' bearing the whole weight of responsibility—can be intrusted with this power with as much safety to the Cherokee interests, and to the treasury of the United States, as a Secretary of War or a Commissioner of Indian Affairs. And it might be presumed further, from the testimony before the committee, exhibiting the careful examination of the late commissioners, that, if the claim of John Ross had been submitted to that tribunal for adjudication, it would have been *rejected* and $581,346 saved to the treasury. The undersigned, therefore, beg leave respectfully to recommend to the House the adoption of the following resolution:

"*Resolved by the Senate and House of Representatives*, That the Secretary of the Treasury be directed to pay, or cause to be paid, the several sums found due to claimants under the Cherokee treaty of 1836, upon the certificates issued, or which may be issued, by the board of commissioners appointed in pursuance of the 17th article of said treaty, out of the unexpended balance of appropriations made for the payment of such claims, upon the presentation of said certificates." [Signed by the four gentlemen before named.]

Congress, by adopting this resolution, thus recommended by the minority of the committee, endorsed in an especial manner the views and positions of their report; and thus decided, in a manner not to be misunderstood, that the Cherokee board of commissioners was an independent tribunal, whose action and proceedings were exclusive and *final* upon the subjects and matters before it, and that from its judgment and decrees there was *no appeal*. It follows, as a matter of course, that the books and papers of the commissioners are the records of a court or tribunal of exclusive jurisdiction; and that this department has no power to authenticate copies of their proceedings, and much less to allow their indiscriminate inspection, for the purpose, emphatically *denied* by Congress, of *reversing* the action of the board by appeal either to the department or to Congress. The committee and Congress say, "there *must* be a *final* decision somewhere, and all that is asked [by the claimants] is, that it *be left* with the tribunal to which the trust was confided by the treaty. If this is not done, then every claim *rejected* by the board at its former and late sessions can be appealed to the Executive or to Congress, or to the councils of the Cherokee nation, and the execution of the treaty will be *interminable*." And yet, after the enactment of a law taking all power over matters before the board from the department, and after the reorganization of a *fourth* board—subsequently, too, to the passage of said resolution, which tribunal continued in session at the Capitol of the United States for twelve months—this office is applied to to allow, as *matter of right*, an inspection of the records of said board, for the avowed and express purpose of obtaining *by appeal* "redress for individuals whose claims have been *rejected*"—a right denied not only by the claimants themselves in their memorial to Congress, but solemnly negatived by the deliberate decision of Congress. Were this, and similar applications now before the office, to be granted, it might well be said, almost in the language of the minority of the committee, "then *every* claim *rejected* by the board, &c., can be appealed to the Executive or to Congress, &c., and the execution of the treaty *will be interminable*." But without reference to the *purpose* of your application to inspect the papers and records in question, as I have already intimated, this office cannot assume the right or authority, denied by the plainest interpretation of the views of Congress, as expressed in the report just quoted, to furnish copies or surrender for inspection the books, &c., of a tribunal wholly independent in its jurisdiction, and which books and papers are the exclusive archives of said board, and have been merely *deposited* for safe keeping in this office, and which form no part of its own or the department's files and records. Their mere *custody* can confer no authority to authenticate a transcript of the proceedings of the board; these records do not constitute any portion of the *res gestæ* of any business before the department; but are, in fact, the *res adjudicata* of a competent and distinct tribunal. It is not only questionable whether, without the special agreement of the parties to be affected, the authentication of the copy of said records by this department would be admissible in any court, but it is more than probable that such a copy would not be allowed to be read as evidence. And, as in other cases which have occurred from time to time, where no such power of authentication was lodged by law, (the tribunals whose records were to be certified having become *functus officii*,) it may require legal provision to be made to make copies of these records evidence before the courts of the country. Whatever inconvenience may arise from this state of things—the power to authenticate copies of these records being a *casus omissus*, only to be cured by law—this department can now afford no relief. Its certificate and seal, in my opinion, could have no more weight, when attached to a transcript of the records of the Cherokee commissioners, than they would have if appended to an exemplification of the proceedings of a board to settle claims under conventions or treaties with a foreign government.

The report of their proceedings made by Messrs. Hardin and Brewster, the commissioners, to the President, and by him referred to this office to be placed on its files, is properly before the office for ordinary use and reference, and a copy of this document, or such portions of it as refer to particular cases, can be furnished to persons interested in said cases, and in reference to any request for transcripts of said report, properly preferred, it will afford me pleasure to furnish them. But as the records and papers of the commissioners are merely in my custody, as before stated, for safe keeping, I have no such authority over them; and am, therefore, constrained to decline granting the application made by you in your letter of the 7th instant.

I am, very respectfully, your obedient servant,

W. MEDILL.

Hon. GEORGE M. BIBB,
Attorney at law,
Washington, D. C.

No. 19.

ATHENS, GEORGIA, *September* 25, 1847.

SIR: I send you herewith enclosed the copy of a letter received yesterday from Colonel Starrett. I have thought it proper to communicate it to you, as you seem to be considered as *particeps criminis.* I shall not request the publication to be sent to me by Colonel Starrett, but should be glad to know what they are doing upon the occasion from time to time; perhaps my friend Mr. Mullay might take the trouble to keep me informed.

I have the honor to be, very respectfully, your obedient servant,

EDWARD HARDEN,
Late Cherokee Commissioner.

To the Hon. W. MEDILL,
Commissioner of Indian Affairs, Washington, D. C.

[Enclosure of No. 19.]

WASHINGTON CITY, *September* 20, 1847.

DEAR SIR: "I had, before you left, commenced publishing some of the enormities practiced in the execution, or rather the non-execution, of the treaties of 17, 19, and 35 by [the] Executive government, and the different boards of *commissioners acting under and in obedience* to instructions from the Commissioner of Indian Affairs. I shall in a few days make another publication, and continue by numbers until I complete a full and fair history of the whole matter, ending with the proceedings of the last board of which you were a member. Now, if you wish it, you shall have a paper,* containing each number as published. I make this offer to you, because of the opinion entertained of you by General Rusk; as the forthcoming numbers will contain the reasons given by yourself, and also the reasons assigned by Mr. Brewster for obeying the instructions of the Commissioner of Indian Affairs, particularly in relation to the issuance [issuing] of certificates on decrees. I am willing to afford you the earliest opportunity of making any reply you may wish to make, provided you signify your wish to receive a copy. You and the department were both greatly mistaken, in supposing that Cherokee claims were "finally put to rest." The matter will again be brought to the notice of Congress, and if I can procure a committee authorized to call for persons and papers, I will establish every syllable of what I shall publish; if so, I know that neither Congress nor the public will approve of the course pursued by the Indian Bureau or the board. I cannot but attach much blame to you; you had a general knowledge of the sufferings of those claimants; and you will well remember what your declarations were while your nomination was yet pending for confirmation before the Senate, as well as after confirmed [confirmation] in relation to many of the questions involved [in] some of the claims, gold mines, reservations, rejected claims, &c., &c., &c., and your action on those same points and cases can be now seen by your decrees.

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* I suppose the "National Whig."—E. H.

With due respect,
PRESTON STARRETT.

Gen. EDWARD HARDEN,
Athens, Georgia.

WAR DEPARTMENT, *January* 31, 1849.

SIR: In answer to your communication of the 26th instant, I have the honor to state that the books and papers of the various boards of commissioners, appointed under the 17th article of the treaty of 1835–'36, with the Cherokee Indians, were, immediately after the last board had completed its labors, in July, 1847, deposited, by the direction of the President of the United States, in one of the rooms in this department, occupied by the Indian Bureau as a place of safety for records and papers not necessary to be referred to in the transaction of the ordinary current business of that office.

Those documents were not deemed or considered by me as constituting any portion of the records or files of the Indian Bureau, nor did I regard the order of the President in directing them to be deposited in that bureau, as imposing any other duty on the Commissioner of Indian Affairs than that of seeing that they were properly preserved as archives of the government.

The report of the commissioners to the President, stating that they had acted on all the business before them, and setting forth the result of their determination in each case, was placed on the files of the department, and exhibited to any person in any way interested in the action of the commissioners.

In September, 1847, when, as it is stated, Judge Bibb made the application referred to, these records and papers were, as before stated, in the custody of the present Commissioner of Indian Affairs; and his course in refusing applications for an indiscriminate inspection of the records, and of the commissioners, met my approval, and was in consonance with the directions I had given in regard to them. When a desire, however, was manifested by individuals to examine the records with a view to ascertain the detailed action on a particular claim, or particular claims, I did not hesitate, on being satisfied of its propriety, to give a written authority to the Commissioner of Indian Affairs to exhibit the records to applicants. It is probable that like authority would have been given to him if he had made such an application.

The files of the department show that Commissioner Crawford considered himself as merely the depositary for the safe keeping of the records and proceedings of the former boards under the same treaty which he had in his possession after these boards had terminated their labors, and that he took the same course as to withholding them from indiscriminate examination. My views of the course which I felt it my duty to take in the matter are truly set forth in the letter of the Commissioner of Indian Affairs, dated the 2d of August, 1848, to the Hon. H. V. Johnson, chairman of the select committee of the Senate on Cherokee claims, a copy of which is herewith transmitted. Should the committee desire to have the above facts stated under oath, I will, on notice, appear before it for that purpose.

I am, very respectfully, your obedient servant,

W. L. MARCY,
Secretary of War.

Hon. GEORGE FRIES,
Chairman, &c., &c.

[Enclosure of No. 20.]

WAR DEPARTMENT,
Office Indian Affairs, August 2, 1848.

SIR: In compliance with the request in your letter of the 31st ultimo, I have the honor to transmit herewith the copies of two papers requested by you, being a memorial addressed to the President on the 10th May, 1847, by Richard Fields and others, complaining of the conduct of the last commissioners, under the 17th article of the Cherokee treaty of 1835–'36, Messrs. Harden and Brewster, and a letter from this office, April 16, 1847, to Mr. Brewster. In justice to the office and to the commissioners, I have deemed it not improper to send also the other papers which accompany those asked for.

In relation to the "books and papers of the different boards of commissioners, under the Cherokee treaty of 1835 and 1836, I am instructed by the Secretary of War to say that they are very numerous, and embrace the evidence of allowances to a large amount, as well as the proceedings of the various boards appointed under the 17th article of the treaty referred to. They were deposited for safe keeping in the War Department, by direction of the

President, and their safety is essential to the interests of the United States as well as of numerous individuals. They are easily lost or destroyed, and their removal to the Senate, unless placed in the special care of some one to be appointed for that purpose, would probably endanger their safety. The Secretary thinks that the committee were not aware of the voluminous and important character of the papers, or they might probably have chosen to pursue the usual course of examining them in the department.

I am desired further to say, that if the committee should see proper to call at the department, a room for the time being would be appropriated to their use, and the books and papers called for all be laid before them. A clerk would also be detailed, if desired, to assist them in their inquiries, and any other facility afforded them which might be necessary or desirable. A reply is respectfully requested.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. H. V. Johnson,
Chairman, *Select Committe on Cherokee claims.*